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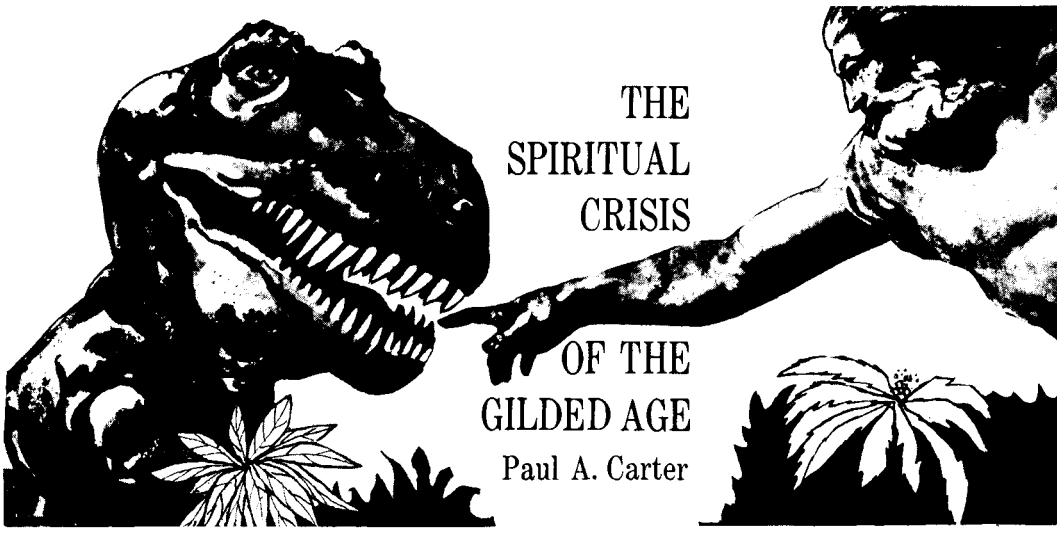

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The Despairing Optimist . . . . . .

RENÉ DUBOS

On a January evening in 1965, I was one of eight persons who spent several hours in a New York hotel discussing the ethical problems arising from man's aggressive behavior. The transcript of our discussions, as edited by our host, Hiram Haydn, was published in the Summer, 1965, issue of THE AMERICAN SCHOLAR under the title, "A Symposium on Morality." "What sort of morality is viable and tenable in our times, taking into account what we now know concerning the nature of man?" was the guiding question.

Most participants in the symposium were primarily interested in the social, philosophical, ethical and theological aspects of man's aggressiveness in the modern world. But I took a different view of the problem. Being an experimental biologist, I thought I should emphasize the biological determinants of behavior, and indicate that morality might have emerged as a social adaptation in the course of man's evolution from his animal origins. Deep in my heart, however, I agreed with Philip Hallie when he passionately stated, ". . . the question of the evolution of morality interests me very little, as little as do questions of the origins, *et cetera*. They may be useful for the sake perhaps of argument, but not for the sake of my own life. When I am making a choice, origins and evolution don't come in, although I'm sure these things are illuminating." And it is true indeed that in real life we are rarely concerned with the biological and historical origins of behavior; rather we base our judgments on the quality of choices and decisions. We may believe that *"tout comprendre, c'est tout pardonner,"* but we also know that understanding and forgiving do not imply approving.

While the transcript of the symposium reveals wide differences of view among the participants concerning the meaning of the word morality, it shows a surprising agreement concerning the fundamental wickedness of man. All of us appeared to agree with David Garnett when he bluntly asserted that man is a killer, and differs from all other animals including apes in that, alone among living things, he practices warfare with the intent to kill. The events of recent years seem indeed to prove that one of mankind's chief occupations is destructive warfare and other forms of violence—deliberately practiced. Men have consciously tortured and killed their fellowmen in Algeria, Vietnam, Biafra, the Middle East, in city streets all over the world and even on college campuses. Destructive violence is as much a part of life today as it was in Homer's time.

Revulsion against violence, however, is also one of the hallmarks of human history. The soul-searching and protests generated by the tragedies of the past few years are almost as impressive as the tragedies themselves. In every part of the world, furthermore, there are countless normal human beings who would find it extremely painful, if not emotionally impossible, to kill another human being or even to exhibit aggressive behavior. It takes a great deal of conditioning to prepare a nation for war, and to train soldiers to kill by hand-to-hand combat. While it is obvious that many men

✪ This is the fourth installment of RENÉ DUBOS' column in the SCHOLAR. A microbiologist, Dr. Dubos is the author of *Man Adapting, So Human an Animal* and *Reason Awake: Science for Man.*

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are killers, it is equally true that many more are not. And for this reason it seems hardly justified to state that Man—with a capital M—is by nature a killer.

One need not be an anthropologist or a historian to know that violence and conflict have existed in all human societies under many different forms, but opinions differ about the origins of human aggression. Some regard it as purely the consequence of cultural or social conditioning. Others believe that it is the direct and inevitable expression of instincts that are indelibly inscribed in man's genetic code. This polarization of views constitutes in reality a pseudo problem, analogous in all respects to the now worn-out nurture *versus* nature controversy. The potentiality for aggressiveness is indeed part of man's genetic constitution, just as it is part of the genetic constitution of all animal species. But the manifestations of all genetic potentialities are shaped by past experiences and present circumstances. There is no genetic coding that inevitably results in aggressiveness, only a set of genetic attributes for self-defense that can become expressed as aggressiveness under particular sets of conditions.

The philosophers of the Enlightenment believed in the perfectibility of man and therefore expected aggressive violence to subside as society became more just and rational. In contrast, the dominant view in our times is that man's propensity for violence is innate—an inescapable evolutionary consequence of the changes in ways of life that occurred when the Miocene precursors of Homo sapiens moved from the forest to the savannah type of country some fifteen million years ago. After our precursors had left the prehominid forest Eden, they progressively acquired, so the story goes, the ways of armed hunters and thus became the killer apes of the Pliocene savannahs.

Just as the eighteenth-century philosophers accepted the theory of the good, happy savage on the basis of limited and one-sided accounts of primitive life written by the early explorers of the Pacific islands and of America, so we tend to accept the view of aboriginal depravity and violence on the basis of very sketchy anthropological information. In both cases, scientific knowledge is selected and used only to the extent that it fits an *a priori* view of human nature. In William Golding's *Lord of the Flies,* disagreement over leadership leads to violence and terror among a group of English schoolboys cast away on a small island. The theme of the book, according to the author, is "to trace the defects of society back to the defects of human nature." In fact, however, the behavioral defects described by William Golding may not have their origin in human nature but rather in the system of values taught English schoolboys. Boys from other parts of the world might not behave as William Golding imagined on the basis of his English experience. A few years ago, indeed, a group of Micronesian children (from twelve years of age to toddlers) were actually marooned by accident for several months on an isolated atoll, yet there was no violence or terror among them. They survived the experience without physical or emotional stress. Their fortitude was probably due to the fact that, whereas Western culture is dominated by the competitive spirit, Polynesian culture makes children aware of their dependence on the community and therefore makes them socially tolerant of each other.

Certain men act as killers under certain conditions because social life often distorts the instinctive responses that are essential for self-defense. The instinct for preservation exists in all animals and can generate violent behavior even in the most timid species. Rabbits and mice are readily frightened under ordinary circumstances, but they can fight just as viciously as tigers, wolves, baboons and men whenever any of their fundamental "values" are involved. I have seen a rabbit repeatedly and ferociously assault a huge black snake threatening its nest. Time and time again in the laboratory, I have observed tame white mice—so gentle that a child could handle them—engage in fierce fighting against mice of the same breed and age introduced into their cage from the outside. Violent conflict

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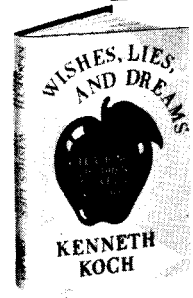

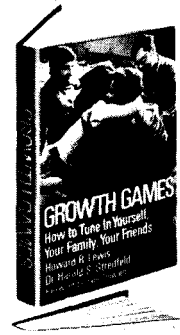

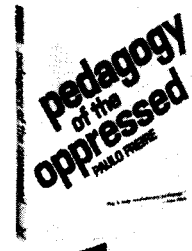

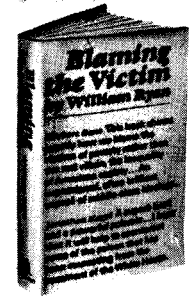

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among these mice occurred even though food and water were abundant, the animals were not crowded, and they did not have occasion to fight for females. It would be silly to say that Rabbit or Mouse is a killer because rabbits and mice will fight to defend their young or their territory, or against a stranger introduced from the outside. In animals as well as in men, many manifestations of the instinct for self-defense result in aberrant forms of behavior that are destructive rather than biologically useful.

In animal life the instinct of self-preservation evolved to deal through short-term responses with situations apprehended by the senses. In man, the expressions of the same fundamental instinct have usually been translated from the plane of nature to the plane of society, from sensual perceptions to symbolic conceptions, from short-term responses to long-range effects. If man behaves more commonly as a killer than do animals, it is because his ways of life, his social history, and his mental processes often place him in situations that differ radically from those under which he evolved and in which he acquired the instinct for self-defense. Comparative observations of animals living in zoos or in their natural habitats help to explain how social forces can make man behave as a killer through aberrations of his instinctive defense responses.

In captivity as well as in the wild, males compete for territory and for the available females especially during the rut season. The savage fights among stags, walrus bulls and seals are part of the wildlife lore. The combat between males, however, is rarely to the death. The weaker combatant turns aside and retreats; the victor lets the vanquished go unmolested. Among animals under natural conditions and often in captivity, fighting presents some analogy to German student duels; certain types of wounds are permissible but most battles are limited to bluffing contests and to confrontations of wits. Furthermore, fighting between animals of the same species is often symbolic rather than real. Animals tend to ritualize their aggression by such attitudes as rearing up, roaring, showing their teeth, or erecting their ruffs, hackles or neck hair. Ritualization of behavior is widespread among higher apes, and also, of course, among men.

Although destructive war is extremely uncommon among animals living in the wild, naturally one finds a few exceptions to the rule of "bluff rather than fight." For example, when an animal enters the home ground of another member of the same species, the latter attacks at once, apparently with the intent to kill the intruder. Such hostile attitudes apply chiefly or only to animals of the same species; other animals with slightly different habits or nutritional needs are usually not considered as competitors, and their presence is tolerated. Thus, the concept of the stranger seems to have had its origins in the fear of losing one's place in the sun to potential competitors for the available food and mates. The concept of foreigner in human life—along with the undertones of mistrust and fear associated with the word in all languages—may well have its biological origin in the hostile reaction of animals to strangers of their own kind moving into their own territory.

When primates live undisturbed under natural conditions in the wild, order and peace are maintained by a hierarchy evolved within the band as each generation grows up. This hierarchy is, of course, subject to rearrangement in accordance with the strength and ability of the leader. But, in general, the bonds of comradeship holding the wild society together are far more prominent in day-to-day life than are occasional episodes of pulling rank.

The mechanisms that secure peaceful interplay within the band under natural conditions commonly break down, however, when the animals find themselves in environments that differ from those under which they evolved. Even in the best-managed zoos, the animals have little or no opportunity for exercising their individual enterprise or for exploring as they normally do in the wild. Their artificial ways of life and environment disturb the operations of the instinctive mechanisms through which

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hierarchy is established in the wild. In the zoo, some animals try to establish and maintain their authority by threats or actual acts of violence. Quarrels become endemic, and now and then the whole society collapses, the females and the young being indiscriminately slaughtered. As there is no food shortage in the zoos, a primate population in such a disorganized state is in some respects comparable to a nonintegrated human population in which material abundance does not prevent social conflicts.

When man emerged from his animal background, he created ways of life and environments in which the social restraints achieved during the early phases of his evolution were no longer effective or suitable. Biological adaptation has not prepared him for the competitive attitudes that prevail in most societies. Man becomes a killer of his own species because he has failed to develop social restraints capable of substituting for the biological wisdom evolved under natural conditions. Violence and internecine conflict are most common in highly competitive societies, particularly during periods of rapid change that upset social order. Man has not yet learned to live in the zoos he has created for himself.

Contemporary events in the prosperous countries of Western civilization leave no hope, unfortunately, that violence can be checked simply by making available to all greater wealth and physical comfort. Even a country as prosperous and economically well-organized as Sweden is not immune to the problems caused by violence.

Eight miles from Stockholm, the Swedes recently created the brand new town of Skärholmen, which was first opened for habitation in 1968 and now counts some twenty thousand inhabitants. Skärholmen was planned to incorporate the most advanced architectural technology but, according to a study reported in the new publication *Europa* (No. 2), modern planning and design have generated their own problems. In particular, the children and teenagers of the new town tend to be withdrawn, restless and aggressive—more so in the case of those living near the center of town in the high-rise buildings than of those living on the outskirts in detached houses. Psychologists who have studied life in Skärholmen have come to the conclusion—neither original nor necessarily true—that the antisocial attitudes of the young are generated by high population density and by austere urban architecture.

Since urbanization is likely to continue increasing for a number of years, the future of mankind would be rather dark if it were really true that aggressiveness is an inescapable accompaniment of crowded urban life. But, in fact, history and the events of our own times offer much evidence that high population density is compatible with peaceful social relationships. For example, Hong Kong and Holland have been among the most crowded areas in the world for centuries, yet their inhabitants are on the whole extremely sociable and orderly. In contrast, violence has long been a feature of the American social scene, not only in the crowded cities, but perhaps even more in areas of extremely sparse population.

The history of the South Pacific islands illustrates the limitations of simple biological theories for the understanding of violence in human societies. Some three thousand years ago, the Polynesian people began to evolve social systems in response to ecological and social problems similar to ours today. Until the time of the European explorations, these islands constituted small isolated worlds; their inhabitants had little chance to escape to new frontiers or to expand demographically and economically. Many South Pacific islanders adapted to confined places by making sociability an essential aspect of their life-styles and by cultivating social and ecological practices that minimized deprivations and conflicts. Before the arrival of the white man, life on Tahiti, Samoa and Hawaii was sufficiently comfortable, safe and happy to generate among the Enlightenment philosophers the pleasant illusion that primitive life proved the fundamental goodness of man and gave the hope that modern societies could re-create the living conditions that had made possible the good, happy savage.

There were, of course, many examples of

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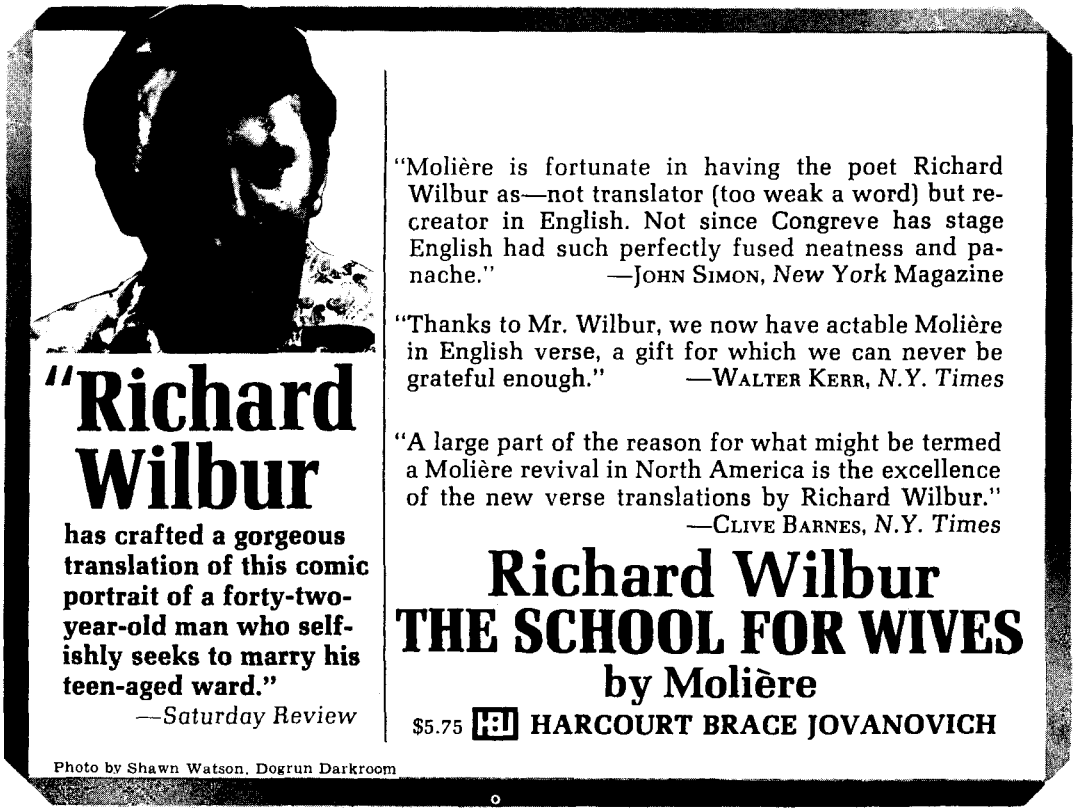
violence among primitive societies. While Tahiti, Hawaii and Samoa appeared to the European explorers as the blessed islands, the neighboring Marquesas Islands harbored ill-tempered cannibals, and the Easter Group Islands were the sites of destructive revolutions. The various Indian tribes of the North American continent also differed greatly one from another in their attitudes toward violence. Some cultivated it as a virtue; others developed complex social mechanisms to prevent or at least to control its manifestations.

To minimize the destructive effects of violence, we might find it profitable humbly to take a lesson from the animal world and try systematically to ritualize our conflicts. War games among primitive people, the jousts of medieval knights, and some of the later gentlemanly conventions of military behavior had in fact some similarities to the sham fights so common among animals, not only in the wild but also in tame populations. If modern societies could develop effective techniques for the ritualization of conflicts—by global Olympic games, for example, or by space exploration—they might achieve something like what William James called the moral equivalent of war. Battles of bravado might go far toward averting the destructive effects of violence.

Man's propensity for violence is not a racial or a species attribute woven in his genetic fabric. It is culturally conditioned by history and the ways of life. The instinct for self-defense exists throughout the animal kingdom and can exhibit aberrant manifestations in animals as well as in man—more frequently in man only because he always lives under conditions that differ profoundly from the ones under which he evolved. We cannot escape from the zoos we have created for ourselves and return to wilderness, but we can improve our societies and make them better suited to our unchangeable biological nature. I do not have much faith in the nineteenth-century version of the perfectibility of man, but I believe deeply in the perfectibility of human institutions.



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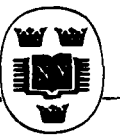

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Raskolnikov, the SCHOLAR, and Fresh Air

PHILIP PAUL HALLIE

An introduction to this special issue of the SCHOLAR

WE ARE dangerous, very dangerous, to each other and to ourselves. Our danger lies not simply in the harm we can do; it lies in the fact that we are so easily tempted to do it. We can live with harmdoing, and suffering, comfortably, happily sometimes, even proudly. In Dostoevski's *Crime and Punishment* (which raises many of the same questions as does this issue of THE AMERICAN SCHOLAR), Raskolnikov has just given his defense of an "extraordinary" man's killing of large numbers of ordinary people when this killing helps to give the world a "new word." His friend Razumihin answers him:

> Well, brother. . . . You are right, of course, in saying that it's not new, that it's like what we've read and heard a thousand times already; but what is really *original* in all this . . . is that you sanction bloodshed *in the name of conscience* . . . that . . . is to my mind . . . more terrible than the official, legal sanction of bloodshed. . . .

To a large extent the history of mankind is the history of hurting and killing with a clear conscience, and often in the name of conscience.

This issue of THE AMERICAN SCHOLAR is devoted to two different kinds of harmdoing, crime and punishment—illegal, unsanctioned harmdoing, and legal, sanctioned harmdoing. It does not deal with grandiose Napoleonic theories like Raskolnikov's; rather it is concerned with actual conditions, with actual harm; and to a great extent it is concerned with understanding the relationships between crime and punishment, these two evils. Behind almost every essay in this issue stands the important and frightening as-

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sumption that members of our species do not need carefully examined reasons for maiming and killing each other. We are content with untested terms like "rehabilitation" and "deterrence"; at least we have been content with them until rather recently. Moreover, we are content even now with punishing for reasons we are too self-deceiving to face (like vengeance and the desire to get rid of what we consider human garbage). With rare exceptions (and the writers for this issue are among those exceptions), our species is content to tame its disgust with deliberate maiming by repeating a few half-truths and by ignoring or covering up our own darkest passions. In this way we all go whistling down the well-traveled road to mutual self-destruction.

Raskolnikov had been listening long enough to voices inside and around him that were telling him that, since he had murdered, he should suffer harm to pay for the harm he had done. Suffering, these voices were telling him, ". . . is a great thing . . . there's an idea in suffering. . . ." The great thing about suffering, the idea in it, was, according to these voices, that it was somehow redemptive. Dostoevski's key image is that of Lazarus rising from the dead, of the resurrection of a spiritually dead human being named Raskolnikov. His voices were telling him that he could come back to life only and simply by suffering, by the misery of imprisonment.

But in the last few pages of the novel Raskolnikov opens a window, as it were, and lets some fresh air come into the masochistic atmosphere that these voices had created in his mind. He was being told that prison would do him good, somehow, but suddenly he found himself asking:

> . . . What's the object of these senseless sufferings? Shall I know better what they are for when I am crushed by hardship and idiocy, and weak as an old man after twenty years of penal servitude? And what shall I live for then? . . .

This issue of the SCHOLAR attempts to bring some fresh air into the miasma of half-articulated feelings that the public has on the subject of crime and punishment. One of the main questions it raises is: Are a prisoner's sufferings redemptive? For instance, Mr. Nussbaum asks: Does the removal of a man from love, loyalty and manly pride serve to rehabilitate him as a loving, loyal and self-respecting member of society? And other articles ask similar

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questions. The unanimous answer of the writers in this volume is that Raskolnikov was right to raise the question and to face the destructiveness of incarceration. There seems to be no palpable connection between penal suffering and resocialization, except that imprisonment makes reform as much a miracle as was Lazarus' resurrection. After a reading of the careful reports of, for instance, Mr. Glaser and Mr. Zeisel, it becomes plain that the custodial function of the prisons works against making a man a creative individual in society. Given the present realities of prison budgets, public fear and vengefulness and the consequent need for a smoothly running, lock-step prison, incarceration buries a man rather than serves to help us resurrect him.

For me the most painful single sentence in this volume is in Mr. Glaser's article:

> . . . While rehabilitation presumably can be ascertained only by determining whether or not criminals persist in crime after their judicial and correctional experiences, most judges and correctional officials have rarely or never tried to have prisoners' records systematically traced to assess the effectiveness of their sentencing or treatment policies.

Instead of studying their own records or the massive researches of scholars like the writers of the articles in this issue, they are content to live with Raskolnikov's miasma, content to keep imprisoning human beings for what Mr. Glaser calls "latent" correctional purposes, like vengeance and incapacitation. They *will* not let in fresh air. Perhaps one of the reasons for maintaining the miasma is that our various officials sense that our social scientists have only negative recommendations and no really persuasive recommendations for replacing the foundations of our judiciary and prison system. Still, they could at least want some fresh air.

This issue is concerned not only with prisoners as victims, not only with the problems symptomized by riots in the penitentiaries and recidivism. It tries to help us understand crime and its terrors for victims of rapists, muggers, pickpockets, and so forth. If we become obsessed with only one set of victims, the prisoners, we fall into what George Bernard Shaw called the "Devil's sentimentality," the smug insensitivity of those who insist on believing that "*tout comprendre, c'est tout pardonner.*" Both for crimes with obvious victims and for crimes (sometimes said to be) with-

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out victims, any careful treatment of crime and punishment must ask: To what extent can the arrest and suffering of a convicted criminal deter others from committing similar crimes? Of course, this question is not sharply distinct from the question of whether prison can reform a person, but deterrence focuses our attention less on the prisoners themselves than on the crime and the sometimes shattering harm it inflicts on individuals and on society. Fresh air on deterrence is as much an important need as fresh air on resocialization. This issue tries to help us satisfy both needs. Illegal harm (crime) is, after all, the main justification for legal harm (punishment), and it is as dangerous to separate them forever as it is to lie to ourselves about their relationships with each other. If we would avoid the great temptation to condone terrible harmdoing, we should keep in mind what Mr. Samuels in his article puts simply: ". . . violence hurts all victims equally. . . ."

Still, there are times when one sort of victim demands more study than another sort. Most of the writers in this issue seem to believe that the prisoners deserve this special concern now, for the sake of all of us. And I concur with them. For long enough now, fear in the streets and discomfiture in high places have been the main concern of jurisprudence and the law itself. Because of this concern punishment has been vicious and unproductive—itself a crime against humanity. And so fear and discomfiture among law-abiding citizens do not now need a voice as much as does the despair of our stigmatized and voteless prisoners.

Above all, we must try not to forget that to do radical harm to somebody is to do a shocking, not a negligible, thing. We must try not to forget that the danger and magnitude of that harmdoing are even greater when smashing human beings becomes rationalized and institutionalized as a mildly deplorable means to some vaguely humane goal. Dostoevski's novel and this issue are both trying to tell us that we dare not assume that sheer suffering will free us all from harm. In fact, even a glance at history teaches us the contrary: harmdoing proliferates and traps us all. When we do harm to each other, or to ourselves, legally or illegally, we do more than harm *this* particular victim. In two different but importantly related ways, Dostoevski's novel and this issue powerfully make clear to us how this proliferation can occur.

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Editorial

Law and Justice

Law is the instrumentality intended primarily for the protection and functioning of society as a whole and for the preservation and continuity of civilizations. The emphasis rests on its collective utility. A sense of justice, on the other hand, is innate, an inborn endowment of every human being. It is a right of morality, an abstraction that is never lost and that must prevail over law whenever the two may be in conflict. Justice is an absolute of undiminishable value to man from cradle to grave, while law at best remains an imperfect means of regulating man's relations with his fellows, and always subject to radical change and correction.

To cite two examples: When a humane statute limiting the working hours of women in factories was declared invalid on the grounds that it deprived women of their right to contract freely—to their physical damage—the imperfections and limitations of the law became apparent at once.

When the Supreme Court decided in the *Dred Scott* case that Scott, a black slave, was a mere chattel, an article of commerce to be bought and sold in the marketplace, it revealed dramatically the dominance of the rights of property over the superior moral claims of justice, the birthright of every individual. It took a Civil War and a decision of the same Court as late as 1954 to restore this moral principle of justice to its indispensable presence and role in the operation of law.

Perhaps the most heartening contribution of the Supreme Court under Chief Justice Earl Warren was its concern for the welfare of the helpless in need of legal aid. It is to be hoped that presidential administrations, under the deceptive slogan of "law and order," will not sacrifice humanitarianism—a true synonym for justice—for a more pitiless interpretation of the role of law in a democratic society.

MELVILLE CANE

✪ Mr. Cane, a lawyer and a poet, is a frequent contributor to the SCHOLAR.

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Reflections of a Jurist on Civil Disobedience

GEORGE W. CROCKETT, JR.

THE JOB OF A JUDGE, I have often been told, is really quite simple. He is required to follow the law. And since the law is fixed by precedent and statutes, it does sound like an uncomplicated job. But the truth is that the law is not always clear and immutably fixed, and it never will be. The authors of our Constitution were well aware of the impermanency of that remarkable document. That is one reason they provided for amendments. That also is why they worded each of the first ten amendments—our Bill of Rights—in brief and general terms. They knew that the strength and vitality of those precepts were relevant only so long as they could accommodate to the vicissitudes of changing conditions and the stresses of changing times.

These constitutional generalities have held up remarkably well. But our interpretation of them and our application of the philosophy that they project has ebbed and flowed with the fast-moving tides of our history. So the law, I repeat, is not fixed and immutable. Neither are today's alternatives, which generate constant confrontation between irresistible forces and immovable objects. And nowhere is this state of flux more applicable, I think, than in determining the relationships among democracy, law and civil disobedience.

What is it, then, that muddies the legal waters? Why can we not clearly define in advance, given today's conditions and modern society's needs, the boundaries that distinguish law-abiding and "obedience" from law-breaking and "disobedience"? How can a magistrate in one jurisdiction rule, for example, that a student protest that intrudes on public property is civil disobedience but

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another judge in another but similar situation see no violation of the law?

To try to understand this latitude of legal interpretation, let us first return to fundamentals. The authors of our Constitution and our Bill of Rights were mostly lawyers. These early American lawyers were the products of their times, endowed with qualifications unique in history and perhaps never again to be duplicated. These qualifications included fierce opposition to the oppressive character of government, plus a dramatic and intense eighteenth-century concern with new political thinking and revolutionary doctrines. In addition, they were impelled by the special economic and social interests that they represented to seek and to establish a truly new "birth of freedom" from oppressive government.

On this last point, relating to their economic interests, let me quote from the great American historian, Charles Beard:

> . . . whoever leaves economic pressures out of history or out of the discussion of public questions is in mortal peril of substituting mythology for reality and confusing issues instead of clarifying them. It was largely by recognizing the power of economic interests in the field of politics and making skillful use of them that the Fathers of the American Constitution placed themselves among the great practicing statesmen of all ages . . .

In their profound wisdom, and motivated by the highest of purposes consistent with a blend of sectional economic interests, the founders of our democracy devised laws that *professed* to allow the widest range of personal liberty the world had ever known. I say "professed" not in criticism. On the contrary, I have traveled in more than twenty-five countries and on four continents, and I am convinced and proud that the laws of our land are in reality the finest of any country's in the world. They countenance wider dissent and they provide more liberty than the laws of any other contemporary society.

Having said this, however, we by no means declare or imply satisfaction with either our laws as they exist or justice as it is meted out. For the liberties defined by those amazing architects of freedom who wrote our Constitution, and the equality of justice that they professed, have never in our history been more than a promise. Our two hundred-year history has been plagued with this

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irreconcilable paradox between our professed commitments and our actual performance.

"All men are created equal." That is the cry that electrified the world and spurred the brave Colonial revolutionaries on to victory. Yet those same revolutionary signers of the Declaration of Independence—the document that sounded the American clarion call soon to be heard by revolutionaries in France, in Italy, in Germany and in the rest of Europe—carefully and deliberately struck from Jefferson's original draft the passage condemning King George III for conspiring to perpetuate the slave trade and slavery in America.

We are today confronted with that very same paradox. Our First Amendment promises that there will be no abridgment of the people's freedom of speech, of assembly and of petition, but our police, our prosecutors and we judges do otherwise. Although our Constitution guarantees equal protection of the law to all citizens, we have never attained that equality for women, nor for the youth, nor for the poor people in our midst. Although our Constitution guarantees against invidious race and color distinctions by government, our schools and colleges and our public agencies and facilities, north and south, have too often studiously and diligently evaded this responsibility. Although our Constitution clearly assigns the responsibility for a declaration of war to the legislative branch of government, we have for nearly fifteen years lived with a war declared by the executive branch of government and conducted without the advice and consent of the Senate.

And we have done all of this *within the law* as interpreted by the Department of Justice, by the president and by the courts. The citizen knows and, of course, we judges know that these perversions of our constitutional protections are wrong. Is it then civil disobedience—is it unlawful—for the citizens to protest them? And are we judges being faithful to our oaths when we countenance conviction of the citizen because of his protest?

Nearly ten score years ago, a bunch of radicals brought forth on this continent a revolution, spawned of a revulsion against taxes demanded on certain foreign commodities. If their cause was just—and I believe it was—what then of the infinitely more provocative and revolutionary causes that exist today? How shall we adjudge

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the tyranny of taxes in 1774 as compared with racism today, two hundred years later—a racism that imprisons and impoverishes one of every five Americans? How shall we measure the injustice of taxation without representation as compared with an imperialist, evil war that is managed by the Pentagon and opposed by four out of every five Americans? How shall we weigh the unfairness of tax inequity as compared with the crime of permitting abject poverty in the midst of overabundance, and condoning malnutrition, hunger and disease, inadequate housing, insufficient educational opportunities, and mass unemployment in this the most technologically advanced country in all of history?

Is it, in the light of this continuing paradox between the promise of our democracy and the performance, lawful and proper to be always civilly obedient? The question has been put this way: "How does it become a man to behave toward this American government today? I answer that he cannot without disgrace be associated with it." This was the dilemma and its answer given in 1845 by Henry David Thoreau. It haunts us still.

Each judge, to be sure, must wrestle with his own answer. To define freedom, whether personal or societal, is to speak in relative terms. Freedom is a concept that is limitless; but it has no meaning without limits. It is, in short, the "possible" within the limits of the "allowable"—it is the recognition of the restrictions of necessity.

As a jurist sworn to uphold the law, I have taken my place within our Constitutional system—pledged to change it but not ready to overthrow it. The circumference of our circle of legal reference is as large as the umbrella of our constitutional liberties, which covers a vast variety of permissible and proper interpretations.

The assignment America gives to our judges is this: Work to transform the preachments of our Constitution into legal interpretations and judgments that will legitimize the peaceful actions of all those who subscribe to our Constitution's philosophy. How is this to be accomplished? And can it be accomplished in conformity with the law?

Laws are organized society's responses to the need for order—but to be enforceable, they must be acceptable. When they are no

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longer acceptable, they must give way to new and timelier laws. The law is a changing, responsible body of rules and precedents. In the words of the late Dean Roscoe Pound of the Harvard Law School: "Law must be stable, and yet it cannot stand still."

In his magnificent essay, "The Growth of the Law," Mr. Justice Cardozo quotes Mr. Justice Holmes to this effect: "The prophecies of what the courts will do in fact, and nothing more pretentious, are what I mean by the law." He then tells us that, "A principle or rule of conduct so established as to justify a prediction with reasonable certainty that it will be enforced by the courts if its authority is challenged, is . . . a principle or rule of law." Law, then, is a prediction of what the courts will do when presented with a certain factual situation; and precedents are meaningful only as aids to a sound prediction. Judicial conformity is reasonably to be expected only in those instances where a change in ultimate judicial thinking is not reasonably to be anticipated.

We are told that our laws—our statutes and our judicial precedents—reflect the will of the majority; or as Blackstone said: "Law is the embodiment of the moral sentiment of the people." And this, undoubtedly, is true as of the time that the law is made or enunciated. There can be little doubt that the decisions in the *Dred Scott* case and in *Plessy* v. *Ferguson* represented the "will of the majority" just as much as their later revocation by the Civil War Amendments and *Brown* v. *Board of Education,* respectively, also represented the "will of the majority." The question always is, Who are "the people"? Who constitutes the majority?

Our so-called majority has traditionally excluded such vast segments of our population as to turn "the will of the majority" into a numbers game. The majority at the time of the Revolution and at least until 1865 excluded black Americans, a sixth of the population. Women, who make up at least fifty percent of the population, were not part of the majority until passage of the Nineteenth Amendment in 1920. We have at last removed certain voting restrictions, such as property requirements and the poll tax. Now we have declared another new large sector of society among the decision-makers by ratifying the amendment legitimizing the eighteen-year-old vote.

The poor among us still do not vote as often and as freely as

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the rich because of educational and economic hindrances. Black folk do not vote in as great numbers as whites. In short, the laws and their enforcers still reflect the theory that voting is a privilege to be granted or withheld, when it is in fact a birthright, like citizenship itself.

But what of the monstrous injustices inflicted through the years by those majorities of a restricted electorate that denied to most of the population their natural birthright—their right to govern themselves. Do long-delayed, abrupt enlargements of our voting constituencies negate all the prior laws and actions foisted on America by these phony old majorities? Will the new and real majorities of today and tomorrow continue to ascribe to an old and still mythical majority the powers that they never rightfully attained? When the needs of our times and the justifiable aspirations of a new majority require new legal definitions for civil disobedience, old definitions must be revised to legitimize activities that once were, but can no longer be, classified as "Civil Disobedience."

And this brings us to the heart of the matter. Civil disobedience is action taken to support a moral principle. It is action taken in conscious disregard of the law, without thought of personal gain, and in full contemplation of the possible adverse consequences. Civil disobedience can be and usually is a mechanism by which a democracy may change the law and make new law. Through a willful disobedience of the law, a challenge is presented to the authorities.

The protestor or demonstrator who makes that challenge is gambling that the new majority of the people will support him. The judge who must rule on that challenge may also be gambling. If he "follows the law" and conforms to the will and the precedents made in support of past majorities, he gambles that the "will of the majority" remains the same, and he will rule that the persons accused of violating the law are indeed "civilly disobedient." And in making that ruling the conformist judge doesn't take much of a risk: he simply follows precedent blindly.

But not all judges are conformists. The judge who senses that the will of the new majority and the mood of the times have changed sufficiently to incorporate into contemporary law behavior

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or a point of view that previously was regarded as illegal conduct is venturing a prediction that involves a great risk. He is breaking new legal ground and charting a new course without benefit of precedent. For by ruling in favor of the demonstrators or the protestors, he gambles that the conscience of the people has changed and that ultimately the people and the higher courts will sustain his decision. Thus the judge himself is and must be civilly disobedient—at least temporarily—if he is to play an active role in extending and expanding our social concepts and our law.

When a vast outpouring of American humanity marches on the Pentagon, when students all over the land proclaim that they will study war no more, and when the will of the majority is thus made manifest beyond any shadow of doubt—can we judges continue to jail those who protest war, who burn draft cards, who resist induction?

Our revered Martin Luther King provided us with the twentieth century's clearest exposition of the doctrine of forcing a change in legal concepts. In 1963, on Good Friday, he led the march down Birmingham streets to protest the exclusion of Negroes from worship in "white" churches. He deliberately chose to violate the law's refusal to permit the march and to resist the court's injunction against marching without a permit. His arrest, his thirteenth up to that time, and his imprisonment were the means by which he was to bear witness to the law's injustice in that circumstance.

New law has been achieved as a result of this and hundreds of similar acts that uphold that justice, human dignity and human rights are more fundamental than precedents. New law is made by judges who recognize, or who are made to recognize, that the people demand it and the times deserve it.

Black judges, I am convinced, are more sensitive to the needs of our times because they are more sensitive to the abuses of our society. Let me cite one area of this special sensitivity. Police brutality—whether in individual confrontation or in mass actions—has victimized not only the persons abused but the very processes of justice. As a judge, I have taken special pains to determine whether certain convicted persons before my court for sentencing have been brutalized. If brutality is indeed established,

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I hold the state responsible—even to the point of suspending sentence altogether. For the state must enter the Halls of Justice with clean hands. The firm application of this principle will certainly reduce the incidence of police brutality.

What is common practice today, therefore, may be legally outlawed tomorrow. We who are civilly disobedient, if we act to uphold genuine human rights, will in the long run be adjudged civilly obedient—not automatically and not serenely, but in the course of the long and arduous struggle for the equality and freedom we have long been promised and never granted.

I have a deep and abiding faith in the ability of our law and our courts to meet the obligations of a changing society. Without this faith, and without the determination to transform ideas into struggle, our entrenched institutions will resist change and our liberties will not be broadened.

Martin Luther King, in accepting the Nobel Peace Prize, quoted Socrates: "We will not obey unjust laws or submit to unjust practices. We will do this peacefully, openly, cheerfully, because our aim is to persuade." Let those of us who are judges and educators teach how to persuade. Let those of us who are skilled in the law defend the persuaders. And if the people can be persuaded, the law will welcome the extension of liberty, the broadening of opportunity and the more equitable sharing of this country's bounty, consistent with the lofty and still unfulfilled promises we have made over the last two hundred years.

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New Crimes for Old

GRESHAM M. SYKES

AT FIRST GLANCE, the intense public concern with crime in the United States today seems understandable enough. Even though the suffering and distress that flow from assaults, thefts, burglaries, and other illegal acts are not easily calculated, we are constantly reminded of the high and rising cost of crime. And if a member of the public has not yet been victimized, his anxiety about the prospect—at a time when there is one major crime committed per year for every twenty persons—is hardly surprising.

The concern about crime is so pervasive, however, so emotionally laden, that we must suspect that somewhat deeper causes may be involved. Psychiatry, quick to turn the tables on us in such matters, tells us that a good share of our concern may be due to our own unconscious impulses that we cannot bear to face. And, in recent years, a number of social critics have claimed that "crime in the streets" and similar slogans are no more than code words for bigotry; the public clamor about lawbreakers, it is said, is simply a disguise for widespread racial fear and hatred.

There is undoubtedly some truth to these ideas, but I think that it would be a serious mistake to reduce the present unease about the problem of crime to a Freudian projection or a political artifact; and, in fact, there remains another possible basis for today's concern about crime that may be more significant.

Despite a good deal of skepticism on the part of many liberals about talk of crime waves and the problems of law enforcement, it was clear by the end of the sixties that crime rates had increased sharply. Much of this growth in criminal behavior was of a familiar sort, but no less a serious source of worry for all that. In addition, however, it appeared to many that new kinds of crimes

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were coming into existence—or at least new kinds of motivations for crime that were mysterious and disturbing. More and more, lawbreakers failed to fit the poverty syndrome of crime where the offender uses illegal behavior as a deliberate means of breaking free of material deprivation. Inexplicable goals and values seemed to be involved and this, at root, was the thing that made the surge of crime so disquieting. Crime—or at least a significant portion of it in the mind of the public—had become a moral challenge, an alternative view of the social order. In an era when there are many people ready to believe that all things are falling apart and "mere anarchy is loosed upon the world," a concern with crime has become an anxiety about the continuity of American society.

When we examine past theories about the motivation of those who break the law, the persistent image of the criminal as somehow tainted or alien stands out sharply beneath the scrim of changing ideas. In an age of belief, it was the Devil that had crept into his soul and steered him into evil actions. In the nineteenth century, a biological interpretation had captured people's imagination and the criminal was likely to be viewed as a throwback to a more primitive form, with the cause of bad-doing lodged somewhere in the soma. By the beginning of the twentieth century, Freud dominated our demonology and we looked to the psyche for the origins of crime. Now, to a large extent, it is the turn of sociology. It is the deviant social groups to which the individual belongs and the patterns of his socialization that become the villain.

At the present time, there are actually three major strands in the sociological explanation of criminal behavior. There is, first, the idea that people learn to be criminal in a perfectly ordinary learning process, but it happens to take place in association with criminal or delinquent groups. In this model—which could be called the Fagin style of criminalization—the picture is one of a normal boy growing up in an abnormal atmosphere and taking on the values, attitudes and norms of his peers, who unfortunately are lawbreakers.

Second, there is the idea that most people, to some degree or another, have impulses to seize on illegal means as the shortest and most effective path to their goals. The likelihood of these impulses finding expression, however, is a product of a breakdown

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of social controls. And such a breakdown is to be found in the form of disorganized families, ineffective school authorities, and the close example of adult criminals, a set of conditions encountered all too often in the slum.

A third view of criminal and delinquent behavior, stemming from the work of sociologists such as Durkheim and Merton, has argued that in a number of societies a great emphasis is placed on achievement and success, particularly in monetary terms. In the United States especially, it is said, these are goals implanted in almost everyone; we are all strivers, not because of some acquisitive instinct but because our culture tells us to be so. At the same time, our society fails to provide equal opportunities for reaching these goals, and places little moral weight behind the regulation of the means used. The resulting frustration, surrounded by ethical ambiguities, means that there is a constant pressure toward deviant or illegitimate behavior with few normative restraints—a state of so-called anomie. Crime becomes prevalent, not because people are brought up in deviant subgroups or because of "abnormal" socialization, but because the society itself suffers from a general discontinuity between ends and means.

These generalizations about crime might seem too embracing, and it is true that for the sociologist a broad generalization is like catnip for a cat. Some critics might fault these ideas for being too simple, and it must be admitted that these explanations of crime boil down the wild diversity of human behavior to a few variables, although for this brief discussion I have simplified them even further. Nonetheless, these theories have helped enlarge our understanding of crime and delinquency in the past, and they are in fact being used as the intellectual underpinning for many programs of treatment.

The trouble with these sociological explanations of criminal behavior is due, I believe, not so much to their inadequacy in dealing with the more or less conventional crime for which they were designed, but to the fact that they have been overtaken by the rush of history and are being used to interpret behavior patterns that are a new element on the scene. The position of the social scientist, like that of many others, is undermined by social change.

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When we look at the sociological theories of crime causation, they evidently share something of a common viewpoint. They are all inclined to assume that the criminal or the delinquent wants very much the same thing everyone wants—and what everyone wants is said to be money, prestige and personal aggrandizement. The goals of the lawbreaker are commonly held to be legitimate or "normal," but the means used to reach them are deviant. If the behavior of the criminal has appeared too irrational or bizarre to be encompassed by this picture, the problem of finding an explanation has been handed back to the psychiatrist. But since the great bulk of criminal behavior has seemed to have an economic objective, the emphasis on deviant means has laid a comfortable claim on a large share of the field.

Now, however, there appears to be a growing number of criminals and delinquents who cannot be stuffed into this particular theoretical box. Perhaps one of the more easily seen forms of this emerging illegal behavior is crime as a form of sport or play. It is true, of course, that Frederic Thrasher, who wrote the classical account of boys' gangs in the 1920s, put a good deal of emphasis on the playfulness that he saw running through much delinquent behavior. And Albert Cohen, who made a study of delinquent boys in the fifties, stressed the nonutilitarian character of much of their activity, for example, stealing from one store, taking the things that were stolen to another store, leaving them there, and stealing again. A few other criminologists have pointed to the thrill-seeking that may be involved in breaking the law, both for adults and juveniles, and crime as a form of sport has not gone unrecognized; but in general it has tended to be discounted.

At the present time, however, there is a strong possibility that crime and delinquency as sport may be on the increase. Auto theft, for example, is often a kind of game, a white-collar form of juvenile daring; and in the last ten years, according to the Uniform Crime Reports of the F.B.I., the rate has gone up 138 percent. There are also many reports that shop-lifting is showing a marked growth, not simply among the poor, but among those well up the socioeconomic scale and often by people who are stealing neither from need nor compulsion, but from a search for excitement. Secretaries in New York, for example, are reported sometimes to

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find stealing from Macy's far more appealing than a luncheon at Schrafft's.

We are looking, I think, at a new kind of crime, in the sense that it doesn't fit much of the theorizing of criminology in the past. And, in fact, there are some writers who see in the future the possibility of a large increase in crime as sport, with relatively well-educated people using sophisticated techniques to create havoc in parts of the social system. We are already familiar with the students at M.I.T. and Harvard University who recorded the sound of different amounts of money being deposited in a pay phone—and then beat the telephone company out of a sizable sum on long distance calls. But Alvin Toffler, in *Future Shock,* suggests that this sort of thing could be just the beginning. Tampering with the survey samples of national opinion polls, rerouting mail, modifying computer programs—all could become forms of "fun," of illegal excitement.

Another kind of "new" crime that appears to be emerging from the wings is political crime. Such crimes are hard to define precisely, and we do not have any good measure of them at the present time—although Governor Reagan early in 1971 was reported as saying that there had been more than five thousand bombings in the United States in the past eighteen months. He clearly views these as political acts, and he may be right. Perhaps more telling is the fact that of the sixteen persons on the F.B.I.'s most wanted list, ten could be placed in the category of politically motivated offenders. In any event, the kinds of acts that frequently involve political goals, such as violent antiwar demonstrations, the seizing of property, the destruction of records, and so on, have reached a new high and may very well increase, despite the supposed cooling-off of the American scene at the beginning of the seventies. These forms of breaking the law pose difficult questions of causation and rehabilitation, for they fall quite outside the view of crime and the criminal that has come to dominate our thinking. Unable to rely on some notion of personality defect or the pathologies of ghetto life as a way of explaining—and thus morally neutralizing—the behavior, we are forced to confront the illegality as a denial of the validity of the political and social order. The offender becomes not a mere deviant from accepted rules (a view of the

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matter that leaves us with the relatively reassuring problem of finding the abnormality that drives him), but a symbol for a competing system of power.

Another type of "new" criminal behavior centers on the theme of alienation. A number of social scientists have accorded some role to alienation in the causation of criminal behavior in the past, but what I have in mind differs from this thinking in a number of ways. First, I am not talking about the alienation that springs from socioeconomic frustration in which the individual is unable to achieve the goals of society that he has accepted. Instead, the alienation I have in mind involves a rejection of the goals themselves. Second, this alienation is much more widespread than the alienation that social scientists have talked about in the past, and is found shot through much of the social structure. And third, it is much more thoroughgoing, in the sense that it involves more than a sense of social estrangement from material aspirations or selected political symbols. Instead, it embraces the entire range of social institutions, including the family, work, social stratification, conventional religion, and so on. If we took *The Greening of America* as a simple description of how some people think rather than as a tested theory of social change (which I think is the more reasonable view), the alienation I am talking about is somewhat like a "Consciousness III" turned very sour indeed and revolving around a bitter rejection of America and everything it stands for. And when this kind of alienation appears in society, we are likely to get a new kind of crime, or, perhaps more accurately, we should speak of new or additional motives for many old kinds of crime. Trashing the Establishment, or vandalism, acts of rage so diffuse in their targets that they appear virtually inexplicable—these become important symbolic gestures, not deliberate means to limited ends but affronts to society as a whole.

There is one more type of "new" crime that is worth considering—namely, behavior that runs counter to the criminal law but about which the individual feels no sense of right or wrong. The law is not so much violated as ignored. When an individual fails to make moral judgments about his illegal behavior, he is sometimes labeled a psychopath, although psychiatry has long been suspicious of that term; the personality defect, it is said, is a

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lack of conscience, superego, or internalized values. But what I am referring to here is not an individual failure or a form of psychological illness. Instead, I am pointing to a sociological phenomenon in which large areas of behavior become divested of any ethical or normative imperatives for large numbers of people over a prolonged period of time.

An example of this we are all familiar with can be found in the case of divorce. One hundred years ago, the act of divorce was widely viewed as something wrong or shameful. Through the years, however, the stigma attached to divorce has faded; and just as the concept of fault in the legal sense is fast disappearing from the breaking of the marriage contract, so too is the concept of the wrongfulness of divorce being eroded in the public consciousness. The argument here is that there are a number of areas of behavior, labeled criminal by the law, for which this same sort of "slipping out from morality" may be occurring for a number of people. The use of drugs, for example, particularly in the case of marihuana, may often be of this order; similarly, certain kinds of sexual behavior, such as premarital sexual relations, seem to be losing a good deal of their moral resonance. The question of whether to engage in such behavior becomes very pragmatic; the question is whether one will be caught.

It would be an error to exaggerate the number of these "new" crimes, and what I have discussed here must be counted as tentative. Nevertheless, it would seem worthwhile to reexamine the explanatory schemes we bring to the crime problem to see if, as I have suggested, shifts in social reality have made our existing theories miss their mark. The true nature of crime in society has always been difficult to grasp and the intellectual orientations that illuminate one part of the problem may black out other, more significant portions. Ideology can distort our perspective, as can a passion for scientific understanding that steers clear of questions of justice or morality because they cannot be measured. But if we fail to gauge accurately what is happening to crime in the United States today, at the very least we will be ineffective in dealing with a serious dilemma. At worst, we could feed the ignorance and fear that flare up in the struggle between the law-abiding and the lawbreaker, and lead to brutal repression.

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Above Carra

Hazard Adams

1

A rusted padlock chained about
a gate: a long road, mostly rut.
Far up the hill the chimneys fly
where the rookeries meet sky.

Maurice Moore had carved a stone
commemorating all that's gone:
Now the wind tumbles the plaster;
only the wind, its wailing master,

seeds the crevices of stair
crumbling in the Mayo air.
Only the wind now stirs
an old house, dead as the Moores.

Moore Hall, where old John Moore thought
to free the people of Connaught,
burned in the troubles, gone to wrack,
stands but a shell of mossy brick.

2

Young George Moore (some say he lied)
kissed the girls and how they sighed!
Kissed the girls and told and told.
Young George Moore, oh he was bold.

Freed from language, freed from life,
George Moore dead took earth to wife,
confounded Mistress Art and friend,
if he had one in the end.

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For his novels hardly please
the Bishop should he read at ease,
and the Protestants can't see
his lemon in their cup of tea.

Ireland has not liked him much
nor built him monuments and such,
but now he's married critics ought
to call his works legitimate.

3

Under a cairn without a cross,
purified of artifice,
celibate with earth endure
the ashes of the artist Moore.

Should the government see fit
to tidy up the grounds a bit,
forget rebellion, heretic,
let it be for his art's sake.

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Public Reaction to Crime in the Streets

FRANK F. FURSTENBERG, JR.

SOMETIME DURING THE 1960s—it is not easy to pin-point just when—crime emerged as a predominant public issue. By the end of the decade, some polls revealed that the public ranked crime as the most serious problem facing our society—above the Vietnam war, race relations, and inflation. Certainly there have been other times in our history when this issue has aroused great anxiety, and this is hardly the first time that politicians have exploited America's chronic apprehension that the moral order is breaking down. Nevertheless, at least in its magnitude, the current reaction to crime is unprecedented.

Two different explanations have been advanced to account for the sharp rise in public concern. Some critics have argued that the wave of anxiety is largely an irrational reaction to the rapid social change that has taken place during the past decade. According to this interpretation, fear of crime is a reverberation from racial and economic conflict that has surfaced over the past ten years. Behind the concern about crime is resentment of social change and resistance to further alterations in the status quo. In the vernacular of the mass media, fear of crime is the symptom of the silent majority's lashing back.

Not everyone has accepted this explanation. Some commentators are convinced that the public's reaction to crime is largely justified. They note that the rate of crime, according to official statistics, has been steadily increasing over the past ten years. Moreover, people are especially frightened by crimes of violence

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committed by strangers, and the public has been told that this type of crime in particular has become much more frequent. Consequently, some would insist that there is every reason for people to be more afraid of crime these days.

Existing data offer some support for each of these explanations. Until two years ago, the surveys conducted by the President's Commission on Crime in 1966 provided the best and virtually the only source of information on public reaction to crime.* Although undertaken primarily to measure the amount of victimization in the population, these studies also included questions on public attitudes toward crime, some of which dealt specifically with the subject of fear. The results revealed that fear was most intense among residents of ghetto areas, especially low-income blacks. At the same time, they showed that anxiety about crime was not always commensurate with the risk of victimization. Many people who had little reason to be afraid of criminal attack worried a great deal about crime. In their summary, the commissioners observed that factors other than victimization might be contributing to an "exaggerated level of fear" in the population.

In January of 1969 *Life* magazine commissioned the Louis Harris Organization to conduct a special survey of public reaction to crime in Baltimore. In addition to repeating relevant items from the Crime Commission studies, Harris asked a number of questions deliberately designed to measure the level of fear in the population. A preliminary analysis of the data was presented in *Life*. In all important respects, the findings supported the results of the Crime Commission. The Harris analysis, however, even more than the previous studies, stressed the inflated level of fear in Baltimore. To quote the account that appeared in *Life,* "many people's fear of crime is exaggerated, and—proportionate to the amount of crime in their area—the people *least* in danger are *most* afraid." Despite this dramatic conclusion, the Harris study also confirmed the finding of the Crime Commission that residents of high crime areas are most afraid of victimization. Thus, some of their results make fear seem a reasonable response to in-

* The Commission's major findings are summarized in a single volume, *The Challenge of Crime in a Free Society* (Avon Books, 1968).

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tolerable living conditions, and other data suggest that it is often irrational and unwarranted.

What seems like a paradox, however, may be only the consequence of conceptual confusion. Both the Crime Commission and Harris use *fear* of victimization and *concern* about crime interchangeably. When one examines the indicators they employed, it becomes immediately evident that the two concepts are not at all equivalent. Fear of crime is usually measured by a person's perception of his own chances of victimization, and concern by his estimate of the seriousness of the crime situation in this country. An individual may be troubled by the problem of crime, but not be in the least afraid of being personally victimized. For example, the Harris data showed that eighty-nine percent of the respondents believed that crime had increased over the past year in the United States, and eighty percent thought it had risen in Baltimore, whereas only thirty-nine percent felt that it had gone up in their neighborhoods. It is easy to see how crime might be regarded as a serious danger to society but not a personal threat. Sources and consequences of anxiety about crime may thus turn out to be quite different for different segments of the public. In effect, then, both explanations referred to earlier may be correct. To explore this possibility, I have reexamined part of the data collected by Harris in Baltimore.

A total of 1,545 people were interviewed in the Baltimore survey. The sample was stratified to give equal representation to residents living in high, medium and low crime areas. These areas were classified on the basis of police statistics that divided the city into nine sectors. The high crime area consisted of the three sectors with the highest rates of crime; the medium and low areas were similarly defined, providing a crude estimate of the objective risk of victimization for each respondent in the sample. As might be anticipated, most residents of high crime areas were low-income blacks, and those in low crime areas, mainly middle-class whites.

Early in the interview, respondents were provided with a card listing ten domestic problems and asked to select the "single most serious problem" that they "would like to see the government do something about." In the middle of the list was the problem of

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"crime and lawlessness." This item was ranked "most serious" by more respondents—almost a third of the entire sample—than any other on the list. Although the remaining two-thirds of the sample were not necessarily unconcerned about the problem of crime, the highly concerned, as we shall see, show more in common than just anxiety about crime.

Later in the interview, respondents were shown a second card, this one listing various types of crimes, and asked to estimate the possibility of each actually happening to them. Their estimates varied enormously; many respondents felt entirely safe, and others, totally insecure. The responses on each of the items were combined into a single index of fear, based on the individual's perception of vulnerability to eight different crimes.*

TABLE ONE

A. The Relationship Between Fear of Crime and Concern About Crime[1]

		Crime Most Serious Problem	Crime Not Most Serious Problem
Fear of Crime Index			
Low Fear	(0–1)	20%	21%
	(2–3)	14	10
	(4–5)	11	9
	(6–7)	8	10
	(8–9)	11	10
	(10–11)	6	6
	(12–13)	7	7
High Fear	(14+)	23	26
		(446)	(1,055)

$X^2 = 8.582$, 7 d.f., N.S.

[1] "Don't Know" and "No Answers" excluded from calculations in all tables.

B. The Relationship Between Concern About Crime and Risk of Victimization

	High Crime Area	Medium Crime Area	Low Crime Area
Concern About Crime			
Crime Not Most Serious Problem	74%	71%	66%
Crime Most Serious Problem	26	29	34
	(515)	(501)	(492)

$X^2 = 7.468$, 2 d.f., $p < .05$

* Six items on the list were excluded from the index either because they did not apply to all of the respondents (for example, rape) or because they were unrelated to others on the list (for example, unfair arrest). The eight items that remained were highly interrelated with gammas of .6 or above.

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As suspected, the two reactions to crime turn out to be completely unrelated to each other. Those most concerned about the problem of crime are no more or less afraid of victimization than anyone else. (TABLE ONE) That concern about crime does not emanate from a personal sense of danger becomes even more evident when the relationship of concern to the objective risk of victimization is examined. As risk of victimization decreases, concern about crime goes up. People in low crime areas are significantly *more* concerned about the problem of crime than those in high crime areas. (TABLE ONE) It should be noted that this finding does not mean that people in high crime areas are unconcerned about the problem of crime but rather that their priorities go elsewhere—to education, jobs and discrimination.

TABLE TWO

A. The Relationship Between Concern About Crime and Index of Commitment to Existing Social Order

	Low Commitment	Medium Commitment	High Commitment
Concern About Crime			
Crime Not Most Serious Problem	81%	72%	60%
Crime Is Most Serious Problem	19	28	40
	(453)	(518)	(537)

$X^2 = 53.585$, 2 d.f., $p < .001$

B. The Relationship Between Concern About Crime and Attitudes About Racial Change

	Strongly Approve of Racial Change	Mildly Approve of Racial Change	Inconsistent Views	Mildly Disapprove of Racial Change	Strongly Disapprove of Racial Change
Concern About Crime					
Crime Not Most Serious Problem	87%	70%	72%	64%	58%
Crime Is Most Serious Problem	13	30	28	36	42
	(91)	(112)	(95)	(176)	(232)

$X^2 = 26.177$, 4 d.f., $p < .001$

If concern is not a response to personal danger, does it in fact arise from resistance to and resentment of social change? Although

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the Harris study was not explicitly designed to answer this question, the survey did include a battery of items that measured the respondent's commitment to the existing social order and, implicitly, his opposition to changing social conditions.* Relating an index of these items to the measure of concern, one sees that discontent with changing social conditions is associated with high apprehension about the crime situation. Those respondents most disturbed by social change and those least disturbed show sizeable differences in their views of the crime problem. More than forty percent of those most threatened by change rank crime as the number one problem compared to nineteen percent of the respondents most committed to change. (TABLE TWO)†

The area of social change that aroused the greatest opposition was racial integration. Apparently resentment toward efforts to improve the situation of blacks sparked much of the opposition to change in general. Nearly a third of the whites‡ felt that Negroes had been demanding more than they were ready for, and believed that their attempts to gain equality should be slowed down. Another third held one or the other of these views, and only one-fifth rejected both statements. Concern about crime was highest among whites most antagonistic to racial reform (forty-two percent) and lowest among the strong supporters of racial equality (thirteen percent). Thus, our findings generally support the view that concern about crime is at least in part an expression of resentment of changing social conditions, especially efforts to eliminate racial injustice.

Do these same sentiments of discontent also produce a feeling

* In general, the items in this index measure respondents' beliefs about why lawlessness occurs and specifically whether they regard it as a response to rapid social change. For example, respondents were asked whether they agreed or disagreed with such statements as: 1) Law and order has broken down in the country because we have gotten away from the old moral values; 2) When some people have so much and others have so little, there is bound to be a lot of crime; and 3) Until there is justice for minorities, we cannot really expect law and order to improve in the country.

† Since whites are both more committed to the existing social conditions and more concerned about crime than are blacks, it is important to check the possibility that the relationship between these two factors is spurious; for example, that it might be only the result of their common association with the racial status of the respondents. The statistical association between concern about crime and opposition to change, however, persist within both racial groups, although it is stronger among whites than among blacks.

‡ Black respondents were not asked their opinion on these questions, presumably because their views were obvious.

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of personal vulnerability to crime? *A priori,* there is reason to suspect that they do not. After all, blacks are most afraid of crime and also less committed to maintaining the status quo. Within the entire population, there is an *inverse* relationship between the index of commitment to the existing social order and fear of crime; however, when this association is examined separately in each racial group it disappears altogether. Looking at our measure of resistance to changing racial relations, we do find that fear is slightly higher among the most prejudiced, but the relationship is not large enough to reach statistical significance. It seems then that political opinions have little to do with personal fear of crime.

TABLE THREE

A. The Relationship of Fear of Crime and Risk of Victimization

	High Crime Area	Medium Crime Area	Low Crime Area
Fear of Crime Index			
Low (0–4)	21%	39%	54%
Medium (5–11)	33	31	27
High (12+)	47	30	19
	(528)	(510)	(500)

$X^2 = 140.921$, 4 d.f., $p < .001$

B. The Relationship of Fear of Crime to Estimate of Neighborhood Safety[1]

	Less Safe Than Most	About Average	More Safe Than Most
Fear of Crime Index			
Low (0–4)	13%	30%	57%
Medium (5–11)	32	35	24
High (12+)	55	35	20

$X^2 = 183.534$, 4 d.f., $p < .001$

[1] Based on an index of the respondent's estimate of the likelihood that various crimes occur in his neighborhood, compared to most other areas.

To a very great extent, people take their cues from their neighborhoods of how afraid to be. Within the neighborhood, the level of fear is fairly homogeneous. For example, the age and sex of the respondent had no sizeable or consistent effect on his fear of crime. Very few people living in high crime areas—less than twenty percent—were unafraid of victimization (that is, among the lowest

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third on the fear index) and nearly half were extremely fearful. In the areas with low rates of crime, the figures were almost exactly reversed. (TABLE THREE) If a more precise measure of the objective risk of victimization had been available—for example, the rates of crime in the precinct or even in the district in which the respondent lived—we might expect to find an even higher association.

These results suggest that people generally have a fairly accurate notion of the amount of crime in their neighborhoods. This conclusion was further borne out when the probability of victimization, measured by police statistics, was related to the respondent's perception of the crime risk in his neighborhood. Most people in high crime areas thought that their neighborhoods were generally more dangerous than other parts of the city, and people in low crime areas correctly perceived the relative security of their neighborhoods. Even more than the official crime statistics, these informal evaluations seem to provide a basis for people's estimate of how afraid to be. (TABLE THREE)

It is beyond the scope of this analysis to go into how residents develop their impressions of the amount of crime in their neighborhoods. There is no reason, however, to believe that this process is either very subtle or obscure. People listen to police sirens, talk to their neighbors, and read the morning newspaper. From the Harris data, it is clear that firsthand knowledge of events in the neighborhood is especially important. Fear of crime was significantly higher among persons who were personally acquainted with a recent victim of a serious crime than among those who were not, and this association would have been even greater had the responses been restricted to friends living in the neighborhood.

Just as people learn how afraid to be from features of the neighborhood, their fear in turn affects the social landscape in which they live. An extraordinary number of precautions are taken by residents of high crime areas to reduce their chances of victimization. Many of these actions—such as avoiding strangers or not going out at night—provide cues to others that the neighborhood is hazardous. There is, then, a continuous escalation of fear in these localities as each person in the area confirms the suspicions of others that it is a dangerous place to live.

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It is not easy to see what, short of reducing crime, might be done to dissipate the climate of fear in these high crime areas. Although residents may be extremely fearful, a case can be made that the anxiety they feel is not excessive. According to the Harris data, more than one out of every ten respondents living in high crime areas had been the victim of a violent crime in the year preceding the survey. Efforts to convince these residents that their fear is excessive would be disingenuous, not to say a waste of time.

Nevertheless, some measures could be adopted that might lessen the anxiety felt by those vulnerable to victimization. For example, ordinances could be written requiring landlords to equip their buildings with adequate lights and locks, as tenants often cannot afford to install these simple protective devices. Safe zones, difficult though they might be to establish, could be designated within high-risk regions; in these areas people could congregate safely after dark. Funds might be made available to hire members of the community to patrol and supervise recreational locations. Special transportation—in the form of either mini-buses or maxi-cabs—might be provided to bring residents to these areas or to shopping districts, which in many neighborhoods now are off limits after dark. Finally, there should be government-subsidized victim insurance to cover the costs of personal injury or loss of property resulting from a crime. Financial compensation is the least society can offer when it is unable to provide reasonable protection to residents of high crime areas. Even if such measures did not greatly diminish fear of crime, they would at least offset some of its most detrimental social and economic effects.

If it is difficult to devise strategies for decreasing the amount of fear, it is harder still to think of ways of reducing the public concern about crime. As frustration mounts among those most troubled by crime, so do demands for political action. Predictably, those most concerned would like to see more authority granted local police and a curtailment of civil liberties. The symptoms of frustration, however, go beyond the articulation of reactionary political opinions. Although the citizens most concerned about crime generally live in the safer areas of the city, they are much more likely to possess firearms than those who did not rank crime

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as the major problem facing our society. About a fourth of those highly concerned have weapons, and most declare a willingness to use them should the occasion arise. Among these respondents, no doubt there are some, too, who are prepared to use the slightest provocation as a means of expressing their discontent with the current condition of American society.

In the meantime, little is being done to allay the concern of these citizens. By and large, conservative politicians have been prepared to applaud or exploit it; liberals, willing to denounce or dismiss it. Few political leaders have undertaken the difficult task of educating and reassuring the public that crime is not the necessary by-product of social change. Indeed, as the Crime Commission noted five years ago, the absence of social change, rather than its presence, is the more likely explanation for the high prevalence of crime in our society. Until this message is accepted by the public, it may be difficult to dispel the pressure for political repression and violent confrontation.

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Fear in the Streets

JOHN WIDEMAN

> *. . . he saw himself—all that for which he had lived—and saw clearly that it was not real at all, but a terrible and huge deception which had hidden both life and death.*
>
> —Tolstoi, "The Death of Ivan Ilych"

WE FEAR what we don't understand. We fear night and death, those dark layers of ourselves that rise to scuttle our well-intentioned efforts to become the better person we sometimes think we want to be. I have a fear of madness, of self-willed destruction that I don't believe is unique in me.

When I was a boy growing up in the city, I was afraid to walk the streets after dark. Then came years in which I was fearless. I was part of the night. It could hide me, change me, free parts of me that didn't come to life while the sun shone. Now, as close to a man as thirty years have teased me, I feel the old fears returning. I listen. I read. I am convinced the night streets are unsafe. Full circle the darkness is inhabited by a bestiary of threatening shapes that daylight only partially dispels. I sleep with a bayonet under my bed.

Whistling was my magic as a child. If I made noise, if I filled my consciousness with noisy proof of my existence, I could somehow navigate the three-block gauntlet from Liberty Elementary School playground to our house on Copeland Street. A whistled melody was good company, a totem to charm the phantoms stalking me silently behind tall shrubbery or lurking in shadowed recesses between buildings. What was always just beyond the reach of my eyes or fingertips subdued me. Everything was too large, too overgrown with layers of mystery, and night intensified the con-

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trast between what little I could see and all those intimidating forces, invisible but controlling my destiny.

I was wiser then. I understood how the city betrayed me; I could continually sense the disproportionate scale. I knew I walked on water, that the same voices that calmed the sea could whip it into a murderous froth. The modern city has made man obsolete. It is not built for men. Supermetropolis serves conglomerates, masses. It serves the disposable, homogenized citizen I do not wish to be—nor do you, nor any man, unless the city has its way and generates a new version of man conforming to its scale.

The urban environment has spawned paradoxes. Although technology indulges our illusions of control—we run as fast as four hundred horses, stand on a star and see the far side of the earth—our bodies have deteriorated shamefully. While its machines grow in numbers and sophistication, the city as a setting for human growth has evolved or reverted to a state of threatening primitiveness in which all man's physical endowments are required for survival.

> The life of the native was never safe. Personal danger was the universal fact of life. There was an almost complete lack of control of natural forces. The forests and rivers were full of dangerous animals, and dangerous human enemies were always close at hand. The insect pests and the tropical diseases made the conditions of life hard and its duration brief. To the real dangers were added an abundance of malignant spirits. An ever-present fear of the natural and supernatural enemies was the normal condition of daily life and protection was the ever-present need.

This anthropologist's re-creation of the bush natives' fear-ridden environment is undoubtably an exaggeration, but for today's city-dweller the description is more than metaphorically true. The reliance on drugs to change what we see and what we are, the appeal of occultism, astrology, demon worship, parapsychology and exotic diets indicate that for many the traditional "enlightened" modes of defense—doctors, lawyers, the Reason of scientists—are no longer adequate. The pervasive violence enshrined in so many aspects of our culture is further proof of the need to externalize our fear of personal annihilation. Experiencing vicari-

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ously through electronic antennae the deaths of others—whether bulls or men—reassures us of the reality of our lives. But worship of violence even from afar is double-edged. Regardless of the individual city-dweller's personal exposure to violence, the media function as an extension of his senses, and a larger-than-life city is created, a Supermetropolis in which the timid resident of West Philadelphia can poke his head from the second-story window of his row house and find his nostrils twitching from the acrid smoke of Watts burning. "It can't happen here" is an anachronistic statement. Instant communication makes it happen here all the time. "Here" becomes synonymous with everywhere, and, in the case of the city, fear in the streets is ubiquitous.

At night the city-dweller is perhaps most vulnerable. The instincts nature provided for his safety in dark, alien surroundings have decayed to inadequacy; he can't see or hear enough, he can't fight or run well enough. When I see joggers in the city parks or skulking flat-footed through the quiet morning streets, I find myself asking what they are running from. From death? From obsolescence? What panic are they acting out? Compartmentalized, hemmed in by the towering city, reminded on every side of the place from which they must not stray, do they escape for twenty minutes? Can they recall in the exercise of taut muscles and rhythmic breathing the freedom they have compromised? Given the restrictions placed upon his basic human drives, the repression of his animal energy, does the city-dweller share the frustration, the subconscious reservoirs of violence Frantz Fanon found in his study of colonized, oppressed natives: "His dreams are of actions and of aggression . . . jumping, swimming, climbing . . . I burst out laughing . . . I span a river in one stride . . . I am followed by a flood of motorcars which never catch up with me"?

We fear ghosts. Ghosts are real.

The editor of this magazine commissioned me to write a piece on fear in the streets. That was eleven months ago. Since then his summer tenants were robbed, he has been shot at through his kitchen window, the rear window of his car was smashed while parked outside his home, his stereo set was stolen, and finally he lost a prospective buyer of his house when, after a final purchase-

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consummating tour, buyer and real estate agent, descending the front steps at 12:30 P.M., witnessed a mugging barely eighty feet from where they stood.

On a bright, brisk February afternoon my wife decided to roll our new baby carriage and new baby to a friend's house six blocks away: a Sunday stroll on a route well-traveled, residential, with houses for the most part sitting well back from the pavement, giving the streets a broad, spacious feeling. At her destination, as she prepared to unravel the baby from his mound of blankets, she was assaulted. Hands went over her eyes, but she wrenched free and her screams frightened the assailant away.

A birthday present from my in-laws, a portable television set, was stolen from our kitchen by thieves who entered a back window and gathered up everything that looked valuable while we slept peacefully above. We traveled three hundred miles to another city carrying with us a new set, compliments of the insurance company. At our destination, my parents' home in Pittsburgh, a robbery occurred, and among the casualties was our second TV set.

Barricaded from traffic during the summer, our street (called a square because it is cut off at each end by a "T" junction) is a playground for our children, and traditionally the adults partake of its sanctuary for annual block parties. I am the only black man on the block, although directly to the west in the adjacent neighborhood, eighty per cent of the residents are black. The May Day party was a collective enterprise giving the young professionals—teachers, architects, students, blue-collar families—a sense of community identification with the square.

Then black children trickle in from the "forest." One. Three. Several small groups silent at the periphery of the merrymaking. Residents of the block become nervous. Unity is gone. We are political creatures and we scuttle to the rightness or leftness of our beliefs. And even if you side with the children, or even if you are black yourself, the sudden self-consciousness, the sense of being other, is electric. The weatherman had promised a clear day, but here were sure-enough clouds massing above the vulnerable picnic spread. A sense of being betrayed. Some begin to whisper, to retreat to the shadows of the porches they own.

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"Hey, I paid for those rolls." "Look at them grab." "Give to one and in five minutes they'll all be here with their hands out." Gradually the whispers solidify to flat statements of outrage. The black children become not casual, curious intruders but outriders, scouts for a larger, plotted invasion. That one keeps staring at us. The older one with all the hair. Whose steps is he sitting on? Do you think she should ask him to move? He may be signaling the others. It will begin to rain any moment. Flood. Inundation. One more outpost in the city overwhelmed by barbarians.

"Youth Slain on North Philadelphia Doorstep," the headline read. The shooting, his mother said, was the third time he had been the victim of a gang attack. In the spring of 1969 he was stabbed, and, working in West Chester, he was jumped and beaten here, while getting off a bus.

She said her son had had nightmares that he was being killed, and once told her: "I hope they shoot me and get it over with so I won't have to suffer."

According to a recruiting brochure issued by the Philadelphia Police Department, Philadelphia, the scene of all the items noted above, is, of America's ten largest cities, the safest, therefore, the best policed.

We fear most in others the evils we see in ourselves. Comparing theater to the plague, Antonin Artaud suggests that plague symptoms may be generated by spiritual disorders, that cultural failure and collapse may attack the "very organs of the body, the particular physical sites where human will, consciousness, and thought are imminent and apt to occur." What he says of the essential theater may be true of fear in the streets: "Like the plague, it is the revelation, the bringing forth, the exteriorization of a depth of latent cruelty by means of which all the perverse possibilities of the mind, whether of an individual or a people, are localized."

It is cathartic, facile and seldom justifiable to blame our misfortunes on immediate circumstances, to castigate the shortcomings of present political leaders and political programs, when we fear walking the city streets at night and hesitate to venture on some streets even in broad daylight. We can curse the moon and the billions spent to stage a golfing exhibition there; we can hate the

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yellow people or the black people who sap the strength of our economy. We myopically scan the bland middle distance while resisting the look inward.

But if the expressive possibilities of body and imagination are inhibited, the organism cannot be healthy. Fear is the grossest reaction of an animal. A kind of ironic paralysis both alerts the nerve endings, bringing them to a throbbing pitch of awareness, and simultaneously dulls their capacity to discriminate. Tied to a chair in a dark room, the fraternity initiate who has been promised a bath of scalding water to test his mettle will delight his potential brothers with a shriek of pain when they pour ice water over his flesh.

The Vietnam war, no more or less than the violence essential to the way we raise and educate our children, is not sufficient cause for the epidemic of fear, but, like any external circumstance, must be scrupulously measured within the context of that highly personal vision we have of ourselves. This personal vision is necessarily opaque to others, and we use its opacity as a screen behind which, we assure those who bother to ask, resides a fundamentally good man whose honorable intentions and humane disposition are a counterpoise to the sometimes hedonistic irrationality of his acts.

Yet we can judge the quality of our collective inner lives by the kinds of diseases that plague us. How the very cells run wild, how the hearts rot, the nerves quiver to madness. We recognize the urge toward self-destruction—fast driving, cigarettes, drugs, alcohol—made glamorous and acceptable. See the moral chaos just as doggedly cultivated by our head-in-the-sand disregard for the lives of others who happen to be an inch outside the network of relationships we perceive as necessary to gratify our immediate needs. How we deceive ourselves by sending twenty dollars to Pakistan or writing indignant magazine articles while the body counts, the crime counts, the bereaved statements of victims and survivors remain as routine to us each morning as that first cup of coffee.

Where is the fine line between the pilot's thumb on his rocket-launcher napalming suspicious movement two thousand feet below him in the jungle, and the finger of the dogface hooked in the

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trigger of his automatic weapon firing into a mass of civilians? And if we countenance these acts by burrowing even deeper into business-as-usual routines, if when the six thousand miles between us and the shooting shrinks to a few city blocks and the "jungle" is a ghetto where black boys are killing other black boys almost daily in gang wars that viciously celebrate the only kind of manhood our society allows them, if we are standing under a streetlamp praying for a bus or taxi to whisk us away from the threatening darkness, and if, finally, after the doors are locked, the windows shuttered, the alarms set, the weapons checked, the extra cigarette smoked as waves of resentment, aggression and fright shudder over our bodies and seem to recede only as they are drawn off by the tides of sleep, what will we dream? We must pay our dues. The city rises with us each morning.

Some days there's so much city you can't hide. You step out of the subway mole-blind, and the city is there, stinking, loud, switching its wide behind, brushing its wino shoulders against your chest. Other days—or rather mostly nights—it disappears, a blue haze collaring the tallest buildings, but, beneath that, planes of thick darkness either too close or too far away. You see nothing. You are walking down a narrow hallway in a strange house, just you and the echo of you. All the cardboard scenery has been collapsed. If there is a city, it sleeps, it is profoundly imperturbable.

A kind of womb sometimes. On occasion a plastic dome, a lid beneath which you are pressure-cooked and displayed. Hot. Cold. Hawk's gonna get you. Monumental architecture, wide boulevards, good for pomp and circumstance parades, bad for people with few clothes. Broad avenues straight and uncluttered in the best Napoleonic tradition for cannoneers to sight down. Burning. Because in its environs and grimy enclaves the factories belch, because in its guts are victims mortally wounded, stopped furnaces, Bigger Thomases watching Cadillacs mince past.

If you want really to talk about fear in the streets, you must begin by dividing the subject matter into black and white. White fear. Black fear. Conditions of the common soul, proceeding from the same gut roots, but channeled brutally by the divisive lies with

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which Americans have chosen to understand themselves. White fear in the streets is fear of black. Black fear in the streets is fear of white. So it seems. Whites fear the burly, black brute, that bugaboo hulking gorilla-legged across the Western imagination since Europe's first encounter with Africa, that beast first chained, then trained, then chained again in institutionalized fetters. Blacks fear the treacherous white keeper of the keys with his guns and whips, his forked tongue and false gods.

If cultures generate men and cities, they just as surely produce myths. Historically, the black man has been the beast of burden onto which have been loaded all those dark truths about Everyman that the American Everyman didn't want to believe about himself. In the popular imagination zoological metaphors were most appropriate for describing the Negro. His smell, his speech, his physical appearance, his morality, his intelligence were poetized with unpleasant metaphors drawn from the beast kingdom. The American colonists in the eighteenth and nineteenth centuries, blind as Melville's Captain Delano to the slave's urge to be free, saw rebellion as a diseased lust within the black breast for white woman, white land, white blood. That distortion of the black man's desire for freedom and independence persists even now; it feeds the myth of the burly, black brute, the archrapist, arsonist, jack-of-all-crimes cartoon figure that haunts the white city-dweller.

The black city-dweller is not untouched by the myth of the black brute. Internally and externally, he struggles with the sordid images of himself and their dehumanizing effects. In this struggle the decaying city is a metaphysical cage. Its filth, violence and brutality—the streets lined with uncollected garbage, the bloody emergency wards, the derelicts and addicts—are an epiphany validating the worst things the black man has heard about himself. The city is an elaborate *I told you so,* proof that the beast fouls his lair. If not, why doesn't he do better? Why doesn't he clean up or join the exodus to the suburbs? Why can't he melt like other immigrants into the collective stew? Reams of statistics describe the black city-dweller; he is the Urban Problem, the Plight of Our Cities. Words employed gingerly like tongs handle him without touching his foreign black flesh. When the newscaster intones,

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"Urban Inner-City Schools," we all know what kind of school he's talking about, whom we'll find sitting numbly in its classrooms.

The crime rate among poor blacks is high, so blacks fear other blacks, the predatory attacks of their fellows who have internalized the brute image and prowl the streets of the city. Ironically, the policeman, white or black, is equally feared. In protecting black from black, he is notoriously inept. But the cop as intermediary between black and white has an unambiguous role; he knows which hand feeds him, and he pursues his task with zeal. For the black city-dweller the cop is the most immediate, concrete evidence that the larger, white world wishes to cordon him off. Along with the decadent, violent fantasies of the media, the policeman enters the black home and defines the nature of the white world. Embodied in his protection of society, his maintenance of law and order, are assumptions concerning black men; the cop carries a gun, uses dogs, employs chains and cages, sanctions in his stare the beast image. He fears the beast in blacks, and beasts only respond to force, therefore, unremitting force is used to instill permanent fear, fear that will lock the black man in his beast place. Whatever else the policeman is, he is also a further validation of the cage. The success of these relationships is apparent in the frightened black men preying on one another, in the compensatory intransigence of gun-carrying blacks as they engage police in Wild West shoot-outs, in the iron bars barricading city apartments and crowded jails.

The black city-dweller sees in the confrontation of Black Panther and Policeman a dramatization of his personal desire for self-determination. The Panther's particular solution—"Yes, I am an animal, but I choose which one, one which is sleek, fast and deadly, one who is bigger and badder than the pig beast I now crown you"—may not be his answer, but he can identify wholeheartedly with the process of redefinition, the imperatives that drive the Panthers. Fear of tainted blackness within and fear of white external control must be scuttled before any kind of liberation, physical or spiritual, can begin.

As a society we seem to be systematically eliminating the middle ground between extremes. We are winners or losers, black or

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white, haves or have-nots, young or old, radical or conservative. What Fanon called Manicheanism, that vision of the world that entertains only absolutes and sees change coming only after violent reversal ("The first shall be last and the last first"), is the product of fear, fear that has reached the proportions of a debilitating psychic plague. In our collective consciousness the sons of light must forever do battle with the sons of darkness. It's never clear who's going to win, so when we walk the streets or glance into the sky, we sense palpable threats. Will the towers of steel and concrete crash down on us at the first note of some clarion trumpet, will the cracking pavements open to swallow us?

I was not quite six months old when Pearl Harbor was bombed. Fighting has never really stopped since then. So I can date myself by the anniversaries of the Pacific war, an antique war from the distance of thirty years. Plenty of bloodshed (we did the best we could), but a storm in a teacup compared to how we can kill each other now. Some constants: massacre, atrocity, My Lai, Song May. Slaughter of the innocents. On the six o'clock nationwide news, an interviewer, almost appalled, almost incredulous, asked the young ex-G.I., "How could you, the father of two young children yourself, shoot down defenseless mothers and babies?" The question was rhetorical, the reporter's voice hovering over an unsounded void, seeking that within himself that would admit the potential of committing the same crime. But with proper respect for the media, with no sense of drama, humor or irony, with deference to any reporter invested with the wealth and sophistication of a major network in his voice, his manners, his clothes—the way he walked into the soldier's living room, the ease with which he lifted from nonentity the soldier's quiet suburban life, even to its nylon carpets and slip-covered furniture—with deference and the proper bland submission due such an emissary of power, the soldier (crippled now by what he stolidly believed was a God-sent land mine whose hot metal canceled out transgression and guilt by kindling his legs) answered haltingly, "The situation occurred over two years ago . . . March '68 . . . and I only had one baby then."

Clarity. Knowledge is overwhelming. Déjà vu. Film clips from

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Nazi Germany: an analogy the participants in the My Lai massacre themselves exhume. Ditches and the bowling pin people topple backwards, disappear, are registered in red lights on some neon tote board. A pattern asserts itself. The score. The numbers are digested, interpreted, explained. Bodies—mostly women and children—alongside the ditch. "Like they had bright red paint poured over them." A Paris newspaper says the American regime of Richard Nixon is certainly not the Germany of Adolf Hitler. There are some comforts in the analyses—the running river of time into which you can never step twice at the same place. But blood runs also. Brings deeper, inconsolable fears, knowledge.

In a society that thrives on the fruits of war, on domestic oppression and economic exploitation of the weak, in a society that has perverted its basic moral, ethical code into something like, "Do unto others before they do unto you," in a nation where truth is an adjunct of power and power is brute force, is it any wonder that the dreams of its citizenry are filled with fear of retaliation, with images of bloody confrontation, a reversal of roles in which the assailant finds himself nakedly helpless before the rage of his former victim?

Cobbs Creek divides Upper Darby, a largely white suburban township, from the southwestern tip of Philadelphia, a neighborhood that is predominantly black.

A fifteen-year-old boy was shot and killed in Cobbs Creek Park. He was struck in the heart by a single shot. The dead boy's mother spoke to a reporter: "My son or any of the kids can't even play in this neighborhood. The Negroes just keep coming across the Creek and they keep breaking windows and aerials off cars. Kids can't even take their bikes to the park or play at the ballfield. That's how bad things are.

"We were supposed to take Stephen down to the shore Friday for the whole summer, to get him away from all this mess.

"I'm very bitter. I hope they catch my son's killer and I hope he gets first degree . . ."

In the period of April ninth to June fifteenth this boy was the third to die in the park. The other victims were black.

Air. Water. Fire. Earth. In our cities we know each element is

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dangerous and steadily growing more corrupt. The human deterioration is perhaps more precipitate. Threatened on all sides, unable to face or name the most profound source of our fears, we stunt imaginative, spiritual seeking and call symptom cause. Crime in the streets is only one troubled surface, one more miasma exhaled by the cities' rotten innards. Brute niggers, dope fiends, sadistic pot-bellied cops, hippies—these cartoons are as close to reality as we come in externalizing the needs, force and direction of our culture. At some level we realize that the city has trapped us, that it has evolved into a kind of procrustean couch, stretching our human shape unrecognizably. The city as a vision of community, of mutual interdependence and cooperation, as a base of material comfort and security, has failed. Instead our cities are blandly symbolic of spiritual death. Neon lights tell us that there is no darkness, crowds tell us there is no loneliness, the monstrous architecture of our town halls tells us there is no injustice, the vast stretches of run-down housing and the teeming black poor tell us we have come far, that progress is real. We have schools so that ignorance will disappear; we have hospitals and doctors to conquer pain.

The city glistens, a reassuring, vast grid of lights, nebulas and comet tails, when you approach it, flying at night. We jet so quickly from city to city that perhaps distance and time will become superfluous. The plane circles closer. Wings tilt right and left, the vista changes, pinpoints of light twinkle in every direction. Like an astronomer, you can find the forms of heroes outlined in the stars below you. You wonder where home is as you dip closer to the luminescent seas. You sense the thrill, the miracle of it all. A man flying. A broad plain mystically glowing in the darkness. Wonder. Beauty. Awe. A fleeting pride.

For a few seconds you disbelieve the locked doors, the rooms, the bed and the bayonet beneath it.

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Three Poems

JACK MATTHEWS

Movies on a Summer Night

From this air-cooled passion,
contrived to feed our make-believe,
we walk out to the flatness
of the night. We wade into
a shallow pond of neon heat,
while insects drop upon our ears
out of silence; a tire squeals,
and traffic lights that line the quiet street
alternate like dancers in a row.
And the ticket office, now, is closed,
dark and quiet as a yawn,
and the car will smell of boredom.

Rocks and Stones

Excrementum diaboli et terrae . . .
sediment from liver, kidney, and brain,
vindictive words scattered to trip
idealists, platonists, and lovers on the plain.

The Wall

This is some mad body's floor,
built against a cruel and stubborn gravity.
Oh the pity that error must have consequence!
Every time I walk on my new carpet,
I fall against the same scarred wall.

✪ *The Tale of Asa Bean* is JACK MATTHEWS' latest novel.

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Crime and Law-and-Order

HANS ZEISEL

THERE IS SOME DOUBT about whether our rate of serious crime is on the increase or not. But there can be no doubt that our crime rate is very high and has been so for a long time.

I speak, of course, of the crime that we are all primarily concerned with: robbery, mugging, burglary, rape, assault, homicide —the crime that makes our cities dangerous and us afraid of walking the streets. I am not talking about the occasional violent crimes for political motives, not because they do not form a grave problem, but rather because they form a different problem—one that I believe can be more easily cured than the problem of hard crime.

Many of us know from personal experience that our crime rate is high, but just in case you have been lucky enough not to have such firsthand evidence, let me tell you a little story, and then give you a couple of illuminating figures.

Some years ago, my wife had to travel to a remote corner of India to do some design work in a ceramic factory, and, in some concern, I inquired of an Indian colleague of mine, a distinguished statistician, at the University of Chicago, how dangerous it was for a woman to live alone in that faraway spot. He thought for a minute, and then said: "Being a statistician, I should say that it is about one-tenth as dangerous as walking at noon in one of our big cities here."

I discovered the following statistics when I recently did some consulting work for my old friends in Austria. The capital, Vienna, is a city of two million inhabitants; its 1968 number of willful homicides was forty-two. Chicago is a city of about twice that size; its 1970 number of willful homicides was eight hundred and ten.

✪ HANS ZEISEL, who teaches sociology of law at the University of Chicago Law School, wrote (with co-author Harry Kalven, Jr.) *The American Jury* and *Delay in Court,* the standard work on court congestion.

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These are the kinds of figures that illustrate the magnitude of the difference between crime in the United States and in other Western countries.

As to the cure, tradition has it, and many a politician tells us, that we must look to the police, the courts, the jails—in short, to what we call our system of criminal justice. It is, we are told, their job to protect us, and if they can't, we are easily persuaded that the fault lies with our system of law enforcement and criminal justice, and that what is needed is simply more *law and order*.

Yet such belief is essentially misdirected. What we are being told is that the Supreme Court has been leaning backward in dealing with our criminals; that it cares more for the rights of these criminals than for those of their victims, and thereby hampers our police; that our courts are not strict enough, or too slow; that there are too many legal loopholes for the criminals; in short, that crime would very quickly subside if only we were to allow *law and order* to reign with more authority. All that is needed to reduce the crime rate, some politicians keep telling us, is to make this crime business sufficiently unattractive. Catch more of these crooks, administer to them swift and strict justice, and all will be well. The criminals will learn quickly, the hard way, that crime does not pay.

I wish it were that simple, but I am afraid things are much more complicated.

Let us first talk about the catching. It is fairly easy to catch people who commit aggravated assault or even those who commit homicide. Why is this relatively easy? Because these crimes, as a rule, do not occur between strangers but between people who are fairly close, sometimes very close: lovers, married couples, triangles, acquaintances—all relationships that are easy to trace. But the burglars and robbers and muggers, and rapists—the real ones, not the friendly rapists, as some lawyers call them—are very difficult to catch. Only fifteen to twenty percent of such reported crime ends in arrest. To be sure, the percentage of arrested criminals is a bit larger (although not by much), because a man often performs more than one crime. But that low arrest rate is not the fault of our police. Nowhere do they catch substantially

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more. It is a fact of life in our big anonymous cities that you cannot catch many more, unless you increase the police force to quite unrealistic numbers. If we were to double our police force, I suppose we could get this figure up to perhaps twenty-five percent. But would that be good enough? And our already overloaded courts would do an even poorer job.

Next comes the reproach that our courts are dilatory. And, indeed, some of them are. On the average it takes six to eight months before a serious criminal case is disposed of, and perhaps it should be less. But anybody who thinks that reducing that interval would substantially reduce our exorbitant crime rate is misinformed. Even if our courts could be brought up to date, this would have only minor impact. A careful study made by the National Bureau of Standards proved this beyond any doubt, somewhat to the chagrin of the sponsor of that study, our Department of Justice.

Third, we hear that our courts are too lenient. Some people complain that sentences just are not stiff enough; if they were, there would be less crime. To give you a feeling about where we stand on this point, let me quote a European criminologist, who visited here recently. On the subject of our sentences, he observed, "What for us in Europe is a month, is for you here a year." So you see, our sentences are already very high, and Europe, with its lower sentences, has nevertheless a lower crime rate. Still, some people will not be much impressed, and will even say that we should hang more people than we do. Yet even if we were to turn the clock back, more hangings would not help. As late as 1800, England had one hundred and eighty-three capital crimes and the crime rate was high. And then, when it was about to reduce the list of capital crimes, fearful warnings were heard of an impending flood of new crime. Yet nothing whatsoever happened, except that fewer persons were hanged.

The truth is that, roughly speaking, our criminal justice system probably works not much worse than that of any Western country, and yet we are easily led to believe that the cure must come from an improved system of law enforcement and criminal justice.

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It is a deeply imbedded notion that to deal with crime is the job of criminal justice. As long as there is not much crime, nobody thinks much about the forces that keep it in check. But when the crime rate is as high as ours, then it becomes obvious that criminal justice is just not sufficient to cope with the crime problem. Beyond a certain minimum point it has little effect. To be sure, we need a criminal justice system, and it ought to function as well as possible. But to believe that by improving it we could significantly affect our exorbitant crime rate is just naïve. First of all, criminal justice, quite obviously, does not deter sufficiently. If it did, we would have less crime. Most of us at one time nourished the idea that if we caught a criminal and punished him sufficiently, we would not only set a deterrent example for others, but especially also for him. Well, prison sentences do not even do the job for *him*. Our statistics on this point are, unfortunately, rather deficient. Nevertheless, we know that a fair portion of first prisoners do not come back. But too many do return, and as a result some seventy percent of our prison inmates have been there before, most of them not much longer than three years before. And if our system does not deter the people it has already put into prison, why should it deter the ones who have not been there yet?

Now, why is it that deterrence does not operate? First, too many crimes are committed out of hate and love, or what seem to be hate and love if one is drunk, and such states of the mind are not easily deterred. Then, legitimate society itself operates often too close to the borderline beyond which we call things criminal. Third, there is a great amount of secondary crime by drug addicts, who cannot be deterred from burglarizing or robbing because drug addiction creates much too strong a motive. Fourth, criminals are on the whole not very intelligent; they are emotionally unstable, and to expect them to engage in a rational calculus as to risks and rewards is not realistic. Even businessmen often deviate from the postulates of economic man, and criminals are much more unreasonable. Last but not least, criminals are a conservative lot: once they have become habitual criminals they stick to their calling. But in this respect, too, there is ample precedent among normal people. In the twenties, for instance, the British coal

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industry lived through a major depression; but, in spite of years of suffering, the miners did not move. They stayed where they were, although they could have moved elsewhere in Great Britain, or emigrated to Australia or Canada, and even to the United States. Yet they did not go; they wanted to stay miners. So if normal people are so stubborn and unreasonable in their disregard of risks and rewards, how can one hope that criminals will be more reasonable?

But, one may ask, do not our reformatories do some good? To judge by the speed with which the inmates return, the emphasis is, at best, on the word *some*. On the whole, reformatories do not do much reforming.

Thus, if whatever we have of *law and order* in our system fails so abominably, why should more of the same succeed? But, you will object, there must be *some* improvement in the crime rate that we could bring about by improving our law enforcement system. Indeed we could, but it will be useful to see the possible impact of such reforms in proper perspective; the law can do here relatively little.

A somewhat related example will help us to see this. Consider the problem of reducing highway fatalities. If you have the law-and-order mentality you will say that it is a simple enough problem. All we need is more cops and stiffer sentences, and that will do it. Well, it will not. And the people who have actually reduced highway fatalities went about it in a very different way. To be sure, somewhere down the ladder, they also studied their law enforcement system, but it was not their first concern. First, they straightened their roads and built overpasses, thereby removing some dangerous curves and crossings. Then they improved their ambulance service; and only in the third place did they do something about the law. Similarly, the crime problem has many dimensions of which the law is only one and, perhaps, not even the most important.

Paradoxically, the first move to consider, therefore, might be that of taking the job of crime reduction away from the law-enforcement agencies. There is another good reason for such a move. Criminal justice has a narrow scope: its job is to catch the

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criminal, and to give him his just desert. The question that concerns the system is whether the people they catch *are* criminals; *why* they became criminals is beyond its scope. Indeed, that is probably as it should be; anything more complicated would make the system unmanageable.

Yet unless we ask and answer the *why,* we are powerless. But are we not told, primarily by the men of *law and order,* that to understand all is to condone all? Nothing is more false: even if we understand the most terrible of crimes, it need not diminish our horror and our disapproval. What is true is that looking at crime only at its point of impact, without caring to understand how it came about, will not get us far.

Whom should we put in charge of crime reduction? Not a lawyer, and not a professional do-gooder. I would suggest that the post be given to a member of that distinguished subspecies of the Homo Americanus, to one of those thoughtful, ingenious, aggressive businessmen who have proved that they can solve problems, however difficult and tricky, in the marketplace.

Where will our man begin? I suppose he will begin by trying to find out where crime comes from, where it breeds; he will want to find out why ex-convicts return so quickly to those horror chambers from which they have so recently been released. He will, therefore, take a closer look at our two major breeding grounds of mass crime: the primary one, our urban ghettos, and the secondary one, our prisons. And since our man might rightly conclude that it will be easier and less costly to begin with our prisons, he will first turn his attention to them.

In some never fulfilled hope, we call our prisons penitentiaries or reformatories. Nice names, but what our prisons do to many of their inmates is something quite different. However bad a man is when he enters prison, he will leave it a worse man. Breeding grounds of idleness, of hatred of society, of sexual perversion, prisons weld their inmates ever firmer to the community of criminals. Why is that so?

One would think that if there is anything to give a prisoner, it is work and opportunity to learn: to raise him to a level that will enable him to make an honest living once he comes out. What

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we do is, as a rule, the opposite. There are exceptions, to be sure, but their number grows slowly. Under pressure from us, the "honest" people, in this case primarily from the labor unions, few prisoners are trained for jobs, or even allowed to engage in meaningful work; as a rule, the work amounts to little more than sewing prison garb or mail bags, or stamping license plates or quarrying stones. And even this is sometimes too much. The State of Illinois, for instance, has, or had until recently, a law forbidding the use in public buildings of stones quarried by convicts. To be sure, I sympathize with the workers, now suffering from an ever-rising unemployment rate, who ask, if so many honest men cannot get jobs, why should they tolerate competition from the prisons. I have sympathy with this view, yet the hard fact remains that unless we make serious work-training for qualified jobs part of the prison discipline, we will not even have taken a first step.

If you ever visit one of our prisons, you will see that work is but one of its many unsolved problems. To be sure, there are some hopeful signs. Some prisons try to improve, and we are now attempting to remedy a small part of the damage our prisons inflict, by creating so-called halfway houses, temporary homes for men released from prison and so obviously unfit to join the non-criminal world.

In this broader context, is there not something the law can contribute to make things better? To be sure there is. One useful action would be to distinguish between real crimes and what one might call artificial crimes because they have no victim. We might begin with our gambling laws. What a hypocrisy they represent. Betting is legal on the tracks, but illegal off the tracks; in Pennsylvania, to place a bet is legal, but to accept one is a crime, so that the jurors who sit on the jury may have placed a bet with the bookie they have to try; gambling is legal in Nevada, and illegal everywhere else, and so it goes. And thus our gambling laws at best divert our law enforcement people from coping with more serious crimes, and at worst present a source of corruption for them. They also produce, incidentally, the black market on which the syndicate crime flourishes, about which our politicians howl after having artificially created the market in the first place.

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And the situation is similar with respect to drugs. To be sure, this is a more complicated problem, but remember that the amount of secondary crime by drug addicts—and I mean real hard drug addicts, not the youngsters who smoke some weed—is one of the major contributions to our crime rate. In England, if you are a registered drug addict, you go every morning to the clinic, get your shot and go to your job; it costs you a few pennies and you need not rob somebody to pay the pusher. So far, we have preferred to deal with this problem differently, and we all know with what success.

One more example of how changing the law might help. In preparing the President's Report on Firearms and Violence, on which I had the honor of working under Milton Eisenhower, we discovered a few interesting facts. Do you know how many hand guns we have in this country? Twenty-four million pistols and revolvers, forty for every hundred families, eight times as many as in *any* other Western industrialized country. Their owners will tell you that they bought the guns for self-protection, yet the evidence shows that, for all practical purposes, possession of a hand gun does not protect from anything; rather, it is a menace to the owner and his family. Mr. Eisenhower told the present Administration and Congress: Do at least what New York City and Massachusetts did; enact a restrictive gun licensing law—not for long guns, not for hunting guns, which are not as often tools of crime—but for hand guns. Over ninety percent of all gun robberies are committed with hand guns. The city of New York, however bad it may be in other respects, has relatively fewer criminal gun attacks than other major cities: it has a strict gun law, under which a man who wants a gun permit must prove that he *needs* a gun. One may infer from this how much more gun crime could be averted if other communities could have such laws, and hence make gun bootlegging more difficult. In most other states, the law works the other way around: only if you are a criminal or a drug addict, or the like, are you officially prevented from buying a gun.

Has the present Administration heeded Mr. Eisenhower's counsel and asked for a gun law? If you ever walk by the majestic

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building of the National Rifle Association in Washington, D.C., you will understand better why there is so little enthusiasm for such a law, although this law would clearly reduce our rate of homicide. Indeed, in these days we hear more about laws against pornography. I think twenty-four million guns are a greater danger.

As you can see, I have left the primary and basic problem of crime reduction—what to do about our ghettos—until last, partly, of course, because the job amounts to nothing less than correcting some of the basic shortcomings of our society. In the ghettos women have not yet been liberated, and only a few of them commit crimes—mostly such minor ones as petty theft—but a young man, growing up without a family, or in a broken home, and without a job for some time (about fifteen percent of the ghetto youngsters are jobless), faces odds of something like one in two of becoming a felon.

There is something frightfully concrete and perturbing in the knowledge that if you were born into such ghetto conditions—over which you had neither power nor say—your chances of becoming a felon are *twenty times as high* as those of someone who was born into a nice suburban family. Ironically, the very concentration of crime in and radiating from our ghettos is one of the reasons we are so blind as to the right road to crime prevention. It makes it too easy to divide people neatly into two groups: *they* who are the criminals, and *we,* the decent people.

Some dent is made in this simplistic thinking when crime comes closer to home, as it sometimes does these days, when the crime rate is so high that the middle and upper classes—*our* classes—are infiltrated. When an offense occurs in our own world, it helps us to understand that the world of crime is not totally separated from ours, that in an indirect way we all are responsible for everybody, and that only by a common effort can we heal the wounds. The notion of the good guys in the white hats *versus* the bad guys in black hats is good enough for television; for the real world, it will not do.

What we must attempt is to enlarge our notion of justice. In the narrower sense, justice is what our police, courts and jails

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mete out to those who have broken the law and been caught. In the larger sense, justice must begin earlier; it means not more, but also not less, than equal opportunity for all, the notion that ranks so high in our patriotic vocabulary, but not quite so high among our deeds. In a truly just society, equal opportunity must begin at birth. This seems not as short a route to crime reduction as the *law and order* path so many politicians recommend, but it is the only one that can bring us there.

To be sure, even with equal opportunity some men will fail where others will succeed. But some hope comes from interesting recent studies with identical twins and adopted children. Studies have shown that far more important than the genetic inheritance, race or I.Q. are the surroundings in which a child grows up. This is a consoling message, because it allows us to hope that if we broaden our idea of justice, we may indeed succeed in reducing crime.

To move toward this larger justice will require not only much money but also a change of minds, and of hearts. But if you think how much aggravation and terror and unhappiness all these evil-doers cause to themselves and their families (not to speak of their victims), to our pride as a nation, and thereby to our esteem in the world, you may think it worth some sacrifices.

These thoughts are a far cry from the shouting for more *law and order*. But they are neither very odd nor very new. As a matter of fact, in about thirty years the foundation from which they stem will be exactly two thousand years old.

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Violence as a Negation of Freedom

CHRISTIAN BAY

VIOLENCE HAS COME FULL CIRCLE since the dawn of civilization. At first violence was essential for individual survival, against men and animals attacking or competing for scarce resources. Then, as tribes and states were formed, violence served to protect the tribe or state from external aggression, and at the same time it protected the prerogatives of power elites and ruling classes against possible contenders from within. In our age of superpowers and technological capacity to destroy the whole human race, old thoughtways about the utilities of violence continue to predominate. But what now has become essential to survival and to freedom in our time is the total elimination of large-scale violence. We must give the highest priority, for research as well as political action, to the optimal reduction of violence.

"Violence" is a thoroughly *bad* word. It is therefore in the interest of every political regime and every ruling class to associate this word with the behavior and aspirations of its opponents, and the more so the more menacing these opponents are.

A monumental paradox emerges, because every political order, past and present, has ultimately depended for its security on its own preponderant control over the available means of physical coercion, organized in disciplined military and police forces. At the same time, at any threat of force on the part of revolutionary groups, or even individual dissidents, they get a bad press in all the government-influenced media, on the ground that they are raising the specter of *violence*.

In a modern society we learn to use emotionally powerful words in ways that promote the ruling interests. "Violence" is generally taken to mean what happens "when revolutionaries or (other) criminals make assaults." When such assaults are sup-

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pressed, that is not called "violence," but more likely "police measures," "applying the full strength of the law," or the like. Charles L. Stevenson in his book *Facts and Values* (Yale University Press, 1963) coined the phrase "persuasive definitions" but stopped short of analyzing the crucial role of *authoritative, preset,* persuasive definitions in the "semantical defense," as I shall call it, of every stable social order.

The most basic political explanation of this phenomenon is that *every* social order is oppressive, even though some oppress more people than others, and some oppress more savagely than others; and yet every political regime, at least in modern, post-Gutenberg times, desires a halo of righteousness. Since "violence" is bad, half the battle against challengers is won if *by definition* any oppressive or forcible measures by the regime can be described in more legitimate-sounding terms.

When I say that every social order is oppressive, I mean that there are always *some* interests that are and remain privileged, at the expense of others. A regime that remains stable is able to extend its semantical fortifications far and deep, and its scholars and teachers become more essential in its defense than its cops and soldiers. Yet no regime, as we shall see, is fully protected against winds of change.

Let me focus on the semantical fortifications for the oppression that goes on in this country. "Violence" is generally understood, as we have seen, to refer to the use of guns by Black Panthers, not by the police; to stone-throwing and looting, not to shooting at the looters; and to bombs aimed at buildings or persons in American cities, not to those aimed at the Vietnamese, whether soldiers or civilians. Other examples of such semantical patterns will establish the general point.

"Defense" is generally understood to refer, not to all measures aiming at protecting the public interest against major hazards, but to the *military* establishment alone. A correspondingly limited scope is given to the concept "national security." If, say, a giant private corporation, or the Atomic Energy Commission, by careless standards were to expose millions of Americans to dangerous levels of pollution of air or water, that would be irrelevant to issues of "defense" or of "national security."

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"Freedom" refers conventionally to the liberties desired by middle-class Americans, with emphasis on the interests of businessmen and their allies, the professionals and (or including) the teachers. The essential liberties are free enterprise and free speech, not the rights to food and to education, or the other basic requirements of a life with dignity. Indeed, an extreme enthusiast for laissez-faire capitalism goes to the length of defining "freedom" or "liberty" as, *exclusively,* "that condition of men in which coercion of some by others is reduced as much as is possible in society" (F. A. Hayek, *The Constitution of Liberty* [University of Chicago Press, 1960]). Oppression by economic circumstances becomes, by this sleight-of-hand, irrelevant to issues of freedom, and government regulations of business in the interest of social justice become by definition an attack on Liberty itself. This, of course, is a bit too thick, in an age of alliance between liberal regimes and corporate interests, with extensive government regulations in the service of these interests; and "free enterprise" has yielded a bit to "free speech" as the crucial meaning of "liberty."

And thus liberal regimes have been aided in the semantical defense of *their* kinds of oppression. If radical students or radical professors forcibly prevent a government spokesman from defending on a campus the war in Vietnam, that is not only by definition violent, but an attack on liberty itself. It becomes a moot point whether such an action aids the cause of nonviolence in Vietnam, or helps any Vietnamese gain the freedom to be "red rather than dead" or to achieve still wider choices.

As a final example of how semantics works for the ruling classes, take Anatole France's well-known gibe at the bourgeois principle of equality—"the majestic equality of the law that forbids the rich as well as the poor to sleep under the bridges, to beg in the streets and to steal bread."

Now, I take it that the role of responsible, independent citizens in any country is to promote the public interest, and that the public interest consists in maximizing the freedom for all (including the unborn) by way of, first of all, reducing the amount of physical and mental damage done to any human being, deliberately or by circumstances.

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If so (and I shall elaborate on this formulation in a moment), then there is a *natural* collision course between every political regime and every fully responsible citizen: the former is partial to privileges, but the latter is a champion of human rights, and, above all, a defender of those who are the least secure and free. If social systems are always defended by established definitions of fighting words as well as by ideologies and brute force, then it becomes one of the responsibilities of the independent citizen to examine how key words can be pried loose from establishment control and then be put to better use, equipped with definitions that serve social justice.

Let us go to it, and redefine "violence" and "freedom."

One exercise in redefining "violence" has recently been carried out with boldness as well as precision by Johan Galtung, the director of the International Peace Research Institute in Oslo. His choice is to make "violence" mean the opposite of "peace," and to develop extended concepts of peace as well as of violence. (See his "Violence, Peace and Peace Research," in *Journal of Peace Research* 6, no. 3 [1969]: 167-71.)

Galtung had noted the tendency for peace research to become not only respectable but virtually embraced by governments, and to be too often thought of merely as research on how to diminish threats to the established international order. Calling the objective of this kind of research "negative peace," he proceeds to define "positive peace" in terms of social and international justice, and calls for a peace research in the service of positive as well as negative peace. The alternatives are, he writes, to bolster leftist extremism by servicing the concerns of justice only, or rightist extremism by concern with law and order only, in and between the states. In Galtung's vocabulary, peace research as well as mass-media reporting has tended to focus on "direct" or "personal" violence, and to ignore "indirect" or "structural" violence, nationally as well as internationally. Acts of violence receive much attention, as threats to (negative) peace, unlike conditions of violence, as threats to (positive) peace, or social justice.

I endorse Galtung's political position on the proper scope and direction of peace research: while positive peace must be promoted

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by way of reducing structural violence, our tinderbox world equally needs to guard against threats to negative peace. International justice and international peace are both very urgently important aims.

I propose to use a similarly extended concept of violence, and to emphasize the same distinction between personal (or *deliberate*) and structural (or *traditional*) violence; but I shall treat violence as the negation of freedom rather than peace. This can be done with less of a violation, I believe, of customary usages of "violence."

"Freedom," once the term is liberated from its servitude under liberal capitalism, can be related to the whole structure of human needs. The freedom to live, and be protected from extreme violence, then becomes the "natural," first-priority freedom, closely followed by the freedom from severe deprivation by poverty. Without food one cannot live at all; without adequate nourishment, garments, shelter, and so forth, one cannot enjoy the freedom of the mind. Paraphrasing Galtung, I define as "violence" *any cause of any needless reduction in basic freedoms for any human being.*

For most practical purposes it will be better to speak in terms of human rights. "Human right" shall refer to any freedom that, in fact, *can* be granted to all, as distinct from privileges, or freedoms that by their nature are exclusive. (See my *Structure of Freedom* [Stanford University Press, 1958, 1970].) I shall assume that the proper business of every government is, above any other priorities, to maximize human rights for all (including the unborn, by way of conservation). If so, the priorities of the government must be the priorities among rights for those *least* well-off, instead of the businessman's and the professional's priorities, which always tend to place privileges ahead of rights.

From a humanistic point of view, to increase the freedom of the most oppressed is what matters most. How this can be done, in each society, and in the world as a whole, is what freedom research should be about. And violence, if understood in this broad sense, becomes the all-important challenge: how can violence be reduced or prevented (and the worst, most destructive kinds first) to the optimal extent? Violence is defined by Galtung, in one formulation, as "the cause of the difference . . . between what could have been and what is." Any person's premature death or disease or

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humiliation or depression is by this definition caused by violence to the extent that the knowledge and resources with which to prevent that loss of freedom were available but not used.

Violence is measured by the harm that is done to human beings. Death tolls and physical disabilities are easier to measure than mental disabilities and many other kinds of losses in levels of freedom; but none are immune to efforts at measurement. And the common sense of political action need not wait for all that research to be done. We are sure to be aiding the cause of freedom and nonviolence if we accept these premises: (1) that all needless damage to human beings constitutes violence; (2) that violence is more to be shunned, or combated, the more badly people will be or are being hurt; (3) structural, traditional violence is no better, or worse, than deliberate acts of violence; what matters is how badly people are being hurt; and (4) no act of violence can be justified unless it is clear that it will alleviate worse kinds of violence than it brings about.

These rules of thumb urgently call for a continuing flow of steadily improved research-based criteria, to reduce errors in factual judgments. This is for peace research, and freedom research, to supply.

Suppose we champion the freedom of the oppressed, or optimal human rights, and choose an appropriately broad concept of violence. Are we then to support any acts of violence against the system that promise to pay off in terms of reduced oppressive violence? In the abstract, this view may seem to have merit, as we have seen, but let me conclude on some cautionary notes:

(1) The wider the discrepancies between liberal-democratic pretenses and the stark facts of oligarchy, and the wider the observed differences between the rich and the poor, the greater the potential for riots, vandalism, crimes of violence and other acts of violent desperation. Michael Harrington has brought home the fact, in *The Other America,* that the poor have become increasingly invisible to the affluent; but the affluent are more starkly visible than ever before to the poor. James Baldwin, Ralph Ellison and others have made the same point about blacks in relation to whites. Television, the movies, the glossier mass media are expos-

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ing the habitual democratic make-believe as a colossal fraud. When there is no use screaming, let alone arguing or voting, what other remedies but violence are left? Indeed, what other defenses of dignity or sanity? None, I believe, unless new kinds of disruptive but largely nonviolent politics can become available.

(2) Riots and vandalism may be preferable to insanity or slow, quiet death, but are counterproductive in terms of their political consequences. Acts of violence against the established powers invite fierce retribution. In North America the affluent classes are as a rule unable to comprehend the reasons for the anger of the dispossessed, and are therefore self-righteously outraged when "fellow Americans" attack property or symbols of patriotism, and more so when policemen or middle-class citizens are attacked. Anything goes, almost, in retaliation. And the defenders of "law and order" always have the larger arsenals of weapons and the lesser inhibitions, after the initial burst of dispossessed fury, about shooting to kill. Indeed, as Edgar Z. Friedenberg has pointed out, some police officers seem addicted to violence and crave for chances to indulge in their habit, for which they are also well trained. (See his "The Spirit of Fascism: Hooked on Law Enforcement," *The Nation* 205, no. 12 [1967]: 360-65.) And actions that "uphold law and order" are, as we have seen, not generally thought of as acts of violence.

(3) Unlike games of chess, contests of violence create psychological barriers to realistic assessments of opponents' future moves. Anatol Rapoport in his book *Strategy and Conscience* (Schocken, 1964, 1969) has well demonstrated how this works in the game of latent mass terror between the U.S.A. and the U.S.S.R., too. With actual as distinct from latent violence, even on a small scale, moral indignation and fury will come to cloud cool reason, and usually more so on the side of the left. That is, after all, where the most basic liberties are at stake, and the most elementary demands for justice.

(4) In North America, at least, I conclude that the dispossessed and their champions have the most to gain by developing alternatives of largely nonviolent political action—techniques of disruption that avoid physical assault on individuals, or the kinds of attack on property that endanger human lives.

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A vast potential for acts of physical violence against individuals has accumulated in this superficially stable-seeming society. If this potential were suddenly released, the ensuing holocaust might well incapacitate the American military machine for future Vietnam-type adventures, but at the cost of enormous suffering of those, in particular, who are already the victims of traditional violence. Also, the madmen of the "massive retaliation" doctrine might reappear in Washington and get the doomsday machines ready for action. A white public opinion literally scared silly might once again, as Joan Robinson once put it, take the "attitude of the wrong mother in the judgment of Solomon—rather blow up the world than allow someone else to lead."

What is to be done, if we want to push *against* the tide of mounting violence in so many aspects of American life? Simply to condemn all (antisystem) acts of "violence" will not do, for the levels of anger have become too deep; still less will it help to appeal to purely imaginary self-redeeming characteristics of our political system.

I have argued here that we need, for one thing, a more reasonable *language* of political understanding, in which fighting words like "violence" realistically register the sufferings of all kinds of human beings who are being needlessly hurt, not mainly troubles for the privileged.

Beyond that, I believe we must keep improving our strategies and techniques of civil disobedience. To show that "creative disorder" can be nonviolent and yet effective, and to show this on TV, offers perhaps the best hope for defusing the American powder keg today. It is important, too, that we become better at thinking of our opponents or enemies as human beings, and better at thinking of acts of violence as something that always hurts the actors as well as those that are being hit; but we must also keep remembering that, from a victim's point of view, it makes little difference whether his life is destroyed by structural violence or by acts of violence. To compare actual and potential harm of acts and facts of violence involves political equations that require medical and sociopsychological criteria, and an end to loaded concepts of violence.

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Returning to Store Bay

BARBARA HOWES

Coming back to this generous island—
Shore, harbor, beach—
Is to leave behind images blown
Like cats through a shadow alley,
And the feel of cement in the teeth . . .

Returning to Store Bay
One comes back to the circular sound
Of wind, whacking the scrolled
Water, the vast contest
Of undertow and surf;

To the savage ironing
Of breezes, rolling on out, stropping,
Whaling, pulling back in, the water
Huge in some artisan hand;
Surf and wind are round.

—In a ferryslip, wings
Of brown paper from a subway
Kiosk play hopscotch, stretch out
In gutters of that town whose
Sidewalks abrade the throat.—

Coming back to this bay
Is to meet again the guffawing
Ocean, is to dance, dimensional,
Hewed out by wind, in the round,
Alive in the muscular sea.

✪ BARBARA HOWES's most recent book, *The Sea-Green Horse,* which she edited with her younger son, Gregory Jay Smith, is a collection of stories for high school and college students. Miss Howes is now at work on her fifth volume of poetry.

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What Is the Business of Organized Crime?

THOMAS C. SCHELLING

It is becoming widely accepted that the business of organized crime is to provide the public with illicit goods and services *like bets, narcotics, sex out of wedlock and* unregulated loans. Federal law even *defines* organized crime as those unlawful activities in which a highly organized, disciplined association supplies illegal goods and services. The appendix on organized crime in the Staff Report to the Commission on Violence states, "It is well known that organized crime exists and thrives because it provides services the public demands," and "Organized crime depends not on victims, but on customers."*

And the Task Force on Organized Crime of the 1967 President's Commission opened its report with the assertion, "The core of organized crime activity is the supplying of illegal goods and services—gambling, *loansharking, narcotics, and other forms of* vice—to countless numbers of citizen customers."†

Indeed this conception of organized crime corresponds to part of the image, although only a part, of the gangs that thrived when liquor was nationally prohibited in the 1920s and early 1930s. (Supplying liquor was the quieter part; suppressing rival supply was the part that made Chicago famous.)

This is in some contrast to what may appear, at first glance, as a quite different line of business that, at different times and particularly in the later 1930s, appeared to *characterize the organized racketeers. This* was extortion, based on the threat of damage, together with occasional efforts to monopolize "legitimate" lines of business by physically destroying or intimidating competition.

The Task Force Report in 1967 gave lesser emphasis—nevertheless some emphasis—to the use by organized crime of "illegitimate methods" in connection with legitimate business and labor unions. These illegitimate methods were identified as "monopolization, terrorism, extortion, tax evasion." The contrast seems to be that in the "core" activities the racketeers are busy providing illicit goods and services whereas, when they turn to legitimate business, they *terrorize, blackmail and monopolize.*

In his appendix to that Task Force Report, Donald Cressey, one of the outstanding academic investigators of this subject, draws a "basic distinction" between ordinary criminals and "organized criminals": the former are wholly predatory and the latter offer "a return to the respectable members of society." Hardly anybody will miss the burglars if they suddenly disappear. "But if the confederation of men employed in illicit businesses were suddenly abolished, it would be sorely missed because

* Mark H. Furstenberg, "Violence and Organized Crime," in *Crimes of Violence:* A Staff Report to the National Commission on the Causes and Prevention of Violence (Washington, D. C., 1969), vol. 13, pp. 916, 925.

† *Task Force Report: Organized Crime,* The President's Commission on Law Enforcement and Administration of Justice (Washington, D. C., 1967), p. 1.

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it performs services for which there is a great public demand."

And all are agreed that, as the Task Force stated, "To carry on its many activities secure from governmental interference, organized crime corrupts public officials." Indeed, some investigators, like the Kefauver committee, found that corruption procured not only immunity from the law but also employment of the police to enforce the mob's authority.

The purpose of my paper is to dissent from this widespread interpretation of what "organized crime" is engaged in. Mine will not be a disagreement with the facts, fragmentary as they are, from which most of the authors and commissions and lawmakers and law enforcers start. The difference will be one of analysis, of interpretation of what is going on. But, before dissenting, let me try to state in a purely descriptive, not analytical, way, what it is we all seem to be talking about when we speak of "organized crime."

Evidently we do not mean simply "crime that is organized." The term, *organized crime,* is not composed merely of two words in the English language that have their ordinary meanings when coupled in this fashion. Donald Cressey does not mean, I am sure, that burglars are never organized. If it should suit their purpose to work in small gangs, to share the take as a partnership, to vote new members into the club, to insure each other against accident or arrest and to maintain a common retirement fund, to have exclusive contracts with merchants who dispose of their goods and to regularize their relations with the police, to have a research staff, a retained lawyer, and a technological consultant, and to divide the labor among scouts, lookouts, breakers and enterers, and disposers of merchandise, they indeed deserve to be called "organized" in the ordinary English-language sense of the word. But theirs is a different kind of "organized crime" from what I am discussing, which is *organized crime.*

But exactly what is the difference? It can be described not only in the definitional language of the law, as being highly organized and disciplined—there may be highly organized and well-disciplined groups of burglars, or counterfeiters, or bank robbers, or embezzlers, or charlatans, or agitators—but as "a society that seeks to operate outside the control of the American people and their governments." Burglars may be *in* the underworld, but they do not apparently seek to govern it, they are not captains of underworld industry, they are not robber barons or monopolists, and they are not associated with ideas of power, control, and underworld "society."

Still, while it may be easy to say what we do not mean by *organized crime,* it is not easy to tell from the professional literature exactly what we should mean. There is no problem, of course, if we can simply point to a unique organization. There is no problem in defining what we mean by a "religious organization" if there is only one church, or by a "political party" if there is only one party. If there is a single "Mafia" that either governs and operates everywhere or has no counterpart in those places where it has no operations, we can give *organized crime* a proper name and call it "Mafia" with a capital M, "La Cosa Nostra" with capital letters, or "The Organization," just as some people refer to "The Establishment" in relation to overworld society, and need not define the species because it has but a single member. But if we take that route we are committed to a particular hypothesis, one that is limited to a particular time and place, and one that precludes comparative analysis because the definition precludes comparison.

There is, I believe, a characteristic of *organized crime* that is consistent with all of these definitions and characterizations, even the one that treats "organized crime" as a proper noun, and that is consistent with most of the prevailing images of racketeers, whether based on stories of Chicago in the 1920s, New York in the 1930s, Miami in the 1940s or any of these places in the 1960s. This key characteristic is suggested by the term, "society." But "society" is too broad and too loose for my purpose. "Government" would come closer to what I have in mind. The characteristic is *exclusivity,*

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or, to use a more focused term, *monopoly*. From all accounts, organized crime does not merely extend itself broadly, but brooks no competition. It seeks not merely influence, but exclusive influence. In the overworld its counterpart would be not just organized business, but monopoly. And we can apply to it some of the adjectives that are often associated with monopoly—ruthless, unscrupulous, greedy, exploitative, unprincipled.

Now it is clear that governments have to have an element of monopoly. We cannot all be obeying two conflicting sets of laws, two competing sets of traffic lights, or two contradictory building codes, and paying taxes to maintain duplicate street systems or armies. If there are several governments, they must work out jurisdictional or territorial arrangements, the way towns and counties and states and port authorities and the federal government do. So if an organization seeks governing authority in the underworld, we should expect it to seek exclusive authority, or at least to seek stable jurisdictional sharing with other authorities so that, all together, they constitute a hierarchy without competition.

That is what we should expect them to seek. We should not be surprised when civil war breaks out.

We now have a hint of what to look for when we ask about the business of organized crime. Part of my argument will be that organized crime is usually monopolized crime. What distinguishes the burglars from the loan sharks or the gambling syndicate is not only that one steals what we have and the other sells what we want. It is also that burglars are never reported to be fighting each other in gangs for exclusive control over their hunting grounds. Burglars are busy about their burglary, not staking claims and fighting off other burglars. It is when a gang of burglars begins to police its territory against the invasion of other gangs of burglars, and makes interloping burglars join up and share their loot or get out of town, collectively negotiating with the police not only for its own security but to enlist the police in the war against rival burglar gangs or nonjoining mavericks, that we should, I believe, begin to identify the burglary gang as "organized crime." Until then we should use a different term, like "organized burglary."

We can ask, at this point, why burglars are not "organized" in the more ambitious way I just described. More generally, why are some kinds of crime apparently "organized" in exclusivist monopoly fashion, and characterized by occasional gang wars and truces and market-sharing arrangements, while other kinds of crime are more like competitive business, the individual criminal or the criminal organization going about its business without a major effort to destroy or intimidate competition and obtain exclusive control?

There is probably no single or simple answer. The same question can be asked about business enterprise in the overworld. And there we find that some businesses lend themselves more than others to monopolization. And if we examine the businesses that seem rarely to be monopolized, or rarely to stay monopolized, and those that show a universal tendency to become monopolized, we may discover characteristics of the technology, the market, the consumer demand, the personnel requirements, or the financial and legal requirements that determine whether a business is ineluctably monopolized, sometimes monopolized, or hardly susceptible to monopolization. We can then turn to the underworld and see whether some corresponding principles apply.

In a purely descriptive sense this tendency toward monopolization surely seems to characterize organized crime. We have to keep in mind that rival claimants to monopoly position sometimes find it cheaper to merge than to make war, or cheaper to stabilize their boundaries than to fight over them, and that even war may lead to surrender and empire rather than to total destruction or massive retaliation. Where there is no governmental authority that can exert itself, or where a government is sympathetic or subservient to business, broad cartel arrangements may provide a framework for comparatively nonviolent resolution of competitive conflict.

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It is worthwhile remembering that the Chicago gangster deaths of the 1920s, like the alleged Boston gangster deaths of the 1960s, were usually characterized, if not identified, as arising out of gang rivalry. Pickpockets and burglars and car thieves, embezzlers and people who cheat on their income taxes, shoplifters and muggers and bank robbers usually don't go around killing each other. There's nothing in it for them. Two bank robbers who pick the same day for the same bank may have to fight for the privilege if they arrive at the same time, and two purse snatchers who grab the same purse may fight for possession; but these are rare instances, and the man who embezzles from the bank he works for has neither the knowledge nor the interest that would motivate him to make war on other embezzlers at other banks. But evidently the people in what the Crime Commission Task Force called "the core of organized crime"—the people in illegal gambling and loansharking—like the people who delivered illegal beer and gin in the days of the Untouchables, fought like the devil for the market, and patched up truces and imposed hierarchical empires that were continually susceptible to breakdown, defection and challenge.

One could, of course, give a particularist explanation of this. The big gangs have power and are greedy for more; the urge to exclusivity is natural, and when they get around to taking over burglary as they may have taken over the protection rackets and loansharking, we'll find burglary displaying these monopolistic tendencies. But I think that would be wrong. An alternative hypothesis is that we find "organized crime" in the lines of business that lend themselves to monopoly. The reason we don't find it in burglary may be that burglary is hard to monopolize.

It may be useful to remind ourselves of how many illegal goods and services are provided competitively rather than by monopoly organizations of the underworld. An ideal example for my purpose is the sale of cigarettes to those below the legal age. Why is this market not monopolized? If it could be, there might be a few hundred million dollars of monopoly profits in it. But obviously it can't be. Nobody can keep a nineteen-year-old from buying a pack of cigarettes for a seventeen-year-old; the competition is everywhere. There is just no room for a black market differential, because the law itself is virtually impossible to enforce. If you can't control the market and police it against competition, excluding competitors or making them pay for the franchise, you cannot do any more than sell cigarettes to minors, and that's not an occupation in which a criminal, organized or not, could make a living.

Monopolize shoplifting? Try it: if you succeed, department stores may hire you as a security guard, because you can presumably spot your competition better than the store detectives, and you may have a competitive advantage on the side of law and order.

At this point it might appear that we've reached the question, why does illegal gambling so readily lend itself to monopolization? Why is it that it not only occurs, as burglary and shoplifting occur, but is the object of monopolistic enterprise as those other criminal trades are not? But I'm going to ask a different question. What is the relation of organized crime to illegal gambling, at least as it shows up in such investigations as those of Senator Kefauver's committee?

The interpretation that I want to suggest is that *organized crime* does indeed have a victim. The victim is the bookmaker —the man who sells illicit services to the public. And the crime of which he is the victim is the crime of extortion. He pays to stay in business. Nominally he may seem to procure a "wire service" or occasionally to borrow money or to use the clearinghouse facilities of the extortionate monopoly organization. But basically he is in a very simple business, one that needs no such organization; and he could do without The Organization. He might find organization useful, as many small businessmen find trade associations and lobbies and even public relations offices useful. But he does not need The Organization. It needs him. It lives off him. It lives off him the way it

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lives off anyone else, in the underworld or the overworld, who buys "protection."

And it is easier to see why extortion has to be monopolized than to see why gambling itself would have to be monopolized. Large-scale systematic extortion cannot really stand competition any more than can a local taxing authority; I cannot take half the bookie's earnings if you took it before I got there. We can divide the bookies between us, territorially or otherwise, but if nine different mobs are demanding half his earnings, all ten of them are in trouble. "Protection" is primarily against the one who offers it, but it has to include protection against rival taxing authorities.

And if the nominal basis for the extortion is the sale of a wire service or something of the sort, then evidently there will be an apparent monopoly of wire service in the underworld, but as a by-product of the monopolization of the protection racket.

We come now to the central question in this whole line of investigation. If the business of organized crime is extortion, in the underworld as well as in the overworld, why is the "core" of organized crime activity in the underworld itself? That is, why is the biggest victim of organized crime an illegal business rather than some legal business? (It may not be, but the traditional estimates as published, say, by the President's Commission in 1967 use figures between five and ten billion dollars as the gross earnings of the illegal gambling business, and impute the larger part of it to the profits of "organized crime.")

It is worthwhile to pause a moment and notice a certain anomaly. Making book is indeed a "crime without a victim," to use the name that Edwin Schur gave these activities,* but is itself victimized by organized crime. The victims of most crimes are not in the underworld. A department store may violate some laws and regulations, cheat its customers or the taxing authorities, or otherwise commit occasional crimes, but basically a department store is a "legitimate activity," and is the target of shoplifters. Shoplifters and pickpockets and burglars and embezzlers do not typically pick their victims in the underworld. Even if their victims are not altogether pure, they nevertheless do not usually have underworld careers. But what is generally referred to as the primary target of organized crime is itself an underworld activity. It is criminals who are victimized, if we accept my interpretation of the business of organized crime as that of extortion.

Should we be surprised? Can we identify characteristics of illegal bookmaking that make it a prime target for organized extortion? Can we possibly then look at other activities, legitimate activities and underworld activities, and infer which among them may be easy targets for organized extortion?

A first criterion for target selection by organized extortionists is that the victims should be poor at protecting themselves. In particular, one would like victims who have no ready access to the law. Criminals would therefore usually be ideal victims. The attractiveness of underworld victims is even greater if the police can actually be used as an instrument; if harassment can take the form of vigorous law enforcement by the police, the extortionists may not even need to engage in illegal violence to keep their victims in line.

Second, the extortionist wants a victim who cannot hide from him. Burglary is a very private affair, and the burglar has no need to advertise himself and his business and his location. A bookmaker or prostitute who was as hard to locate and to identify as a burglar might well escape the racketeer, but he would lose his customers. If a customer can find a bookie when he wants to place a bet, the racketeer can find him. Those who sell illicit services to the public are therefore more visible, more easily located and identified, than embezzlers, pickpockets, shoplifters, car thieves and people who cheat on their income tax. All criminals may be susceptible to blackmail, but

* Schur used the term in relation to the consumer as well as to the purveyor, and did not limit it to marketplace activities but let it include private deviance, like homosexuality, as well. See Edwin M. Schur, *Crimes Without Victims* (Prentice-Hall, 1965).

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those who cannot hide without losing their businesses are especially vulnerable.

Third, it is probably important to be able to monitor the victim's activity and his earnings. Those who operate in the open, dealing with a standard commodity, one that has a face value in money and few complicated costs, are probably those with whom an extortionist can reach an enforceable contract. Even if one can find and recognize an embezzler or jewel thief, one would have a hard time going shares with him, because the embezzler can fool the extortionist if he can fool the firm he embezzles from, and the jewel thief needn't put his best prizes on display. A bookmaker may get away with some business on the side, and avoid taxation by the extortionist organization, but his business is basically simpler and more public than most criminal activities.

Fourth, it helps if the victim has a regular business that he cannot carry away in an attempt to escape extortion. A bookmaker or prostitute or loan shark has to have a place of business; his chief business assets are goodwill, personal acquaintance, knowledge of the customers and their credit ratings, trust, access to a grapevine communication system, and perhaps personal relations with the police. A bookmaker or prostitute can probably always escape, but cannot then continue to do business within the jurisdiction of The Organization.

Fifth, all of this may work best if it works smoothly and regularly. The victim has to be treated "fairly." He has to know that he is treated like other victims. The business has to be depersonalized. Rules of the game are needed so that the victim knows where he stands. He has to compare his situation with that of others in the same business. There probably has to be a set of simple and fairly uniform arrangements. The bookmaker has the choice of paying or not paying; it might burden the system too much if each had to negotiate his own unique arrangement with The Organization, and renegotiate it month by month.

Consider for example the sharing arrangement that Senator Kefauver's committee turned up in Miami. The "syndicate" took fifty percent of the bookmaker's proceeds. This was a standardized percentage. Furthermore, it was not forty percent or fifty-five percent or twenty-nine percent or eighty-three percent. It was a nice round number, the nicest and roundest there is, an even fifty-fifty. Oil-producing countries in the Middle East tend to converge on standard royalty arrangements with the Western companies they deal with. A king or a shah or a sultan or a sheik cannot explain to himself or to his constituents a lesser percentage share than the country next door receives, and he cannot persuasively hold out for a much more favorable share. So it may be that the very standardized nature and visibility of bookmaking lends itself to standardized, visible and institutionalized arrangements, known to all and applied without much discrimination.

Bookmakers probably can compare notes and tell whether they are receiving equal treatment far more readily than my neighbor and I can compare assessed valuations on our houses.

Perhaps another characteristic is that bookmaking, like prostitution, is a fairly petty activity, especially when it is illegal. That is, it can be a one-man or one-person job, or at least the retail organizations can be pretty small and decentralized. The bookmaker is probably his own bookkeeper, and he cannot readily plead inability when asked to pay. An officer of a bank would have to be a first-rate embezzler to pay large and regular amounts of blackmail out of the bank's resources without its becoming known to anybody else in the bank. In large organizations, too many people have to sign the checks, initial the vouchers, audit the books, scrutinize budgets, take inventory, and otherwise tangle things up in red tape. The small independent entrepreneur, whether in the underworld or the overworld, may be more able to meet the demands than a complex organization would be.

These are only suggestions. There may be other characteristics of illegal bookmaking that I have missed, that are even more important in determining why it is such an attractive target for extortion. If

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we knew more about these activities in cities of different sizes, on the insides of large organizations as well as on the streets, and in different parts of the country, and particularly if we compared them with such activities in other countries, we could learn more. My conjectures may at least help to alert investigators to what they should be looking for; unless one raises the right questions, no amount of hearings and inquiries and investigations will turn up the pertinent answers.

It may be equally useful to look at the many black markets that are immune to organized crime. There have been elaborate black markets in foreign currency and gold, but while those engaged may occasionally have been subject to blackmail, there is no sign that it has been at the hands of large extortionate organizations. There is apparently an enormous black market in drugs, if one is willing to construe all the abuses of prescriptioning procedures as part of the black market, and apparently organized crime gets its hands on at most a small portion of it. If firearms should ever be banned in the United States, there will probably be an extensive black market, but the chances are overwhelmingly against its ever being monopolized by a criminal organization. I leave it to the reader to make his own list of the reasons why.

When we turn to the overworld we can similarly ask, what characteristics of a business would tend to make it an attractive target for organized extortion? An equally interesting and important question may be, what forms should we expect the tribute to take? It is of some interest that even in dealing with the petty bookmaker, The Organization sometimes goes through the motion of providing a wire service, or otherwise pretending that it offers something more than sheer brutal "protection." That may explain why organized crime is so widely alleged to have been engaged in businesses like the provision of laundry service. The reason for selecting laundry may not lie so much with the laundry business as with the nature of the customer. Restaurants may be comparatively easy targets for racketeers. They are so easily harassed, because their business is really rather fragile. Noises and bad odors and startling events can spoil the clientele, and even physical damage cannot be guarded against. Furthermore, restaurants do a great deal of business in cash, are often small proprietorships or partnerships, and are therefore financially capable of meeting the demands for tribute. But why not demand cash, then, rather than take it as a monopoly profit on a high-priced laundry service?

Or, to take another familiar example, why is it so often alleged that vending machines as well as pinball machines and slot machines are often "organized" by organized crime? Maybe organized crime likes gambling, and pinball machines are a little like slot machines, and then once you're in the machine business you may as well deal in cigarettes, too. Or maybe the machines are attractive for some other reason.

My conjecture is that the machines, like the laundry service, meet certain criteria that make them attractive means both of exacting tribute and of paying it. Again, if we were attempting organized extortion against restaurateurs in a city, planning to hit them all and to protect them all from rival extortionists, in what medium would we want them to pay us?

One criterion is that it should be tax deductible. There is no sense imposing a cost that is greater than what we get, when we could find a form in which we get everything that the victim loses. The high-priced laundry service is a deductible expense; profits from the cigarette machine are excludable income, as long as the concessionaire receives them, not the restaurateur.

Second, the victim wants to be able to keep books without showing that he pays tribute. He does not want creditors, revenue agents, or grand juries to be able to identify the tribute he pays, especially if it is illegal.

Third, the victim may want a manner of payment that minimizes embarrassment and the loss of self-respect. He may prefer to feel himself the victim of a monopoly linen service, and to complain to his wife and his employees about how the linen industry has been victimized and he is in-

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directly suffering, rather than to remind himself periodically that he is simply paying cash for protection. He may even be able to feel that the vending machines are monopolized, not that he is providing rent-free space for somebody else's vending machine in return for "protection."

Indeed, from most accounts, gambling machines were used for this purpose in the 1930s and perhaps were still so used in the 1960s. A gambling machine in a neighborhood store may represent two kinds of criminal activity. One is illicit gambling, the other is extortion. It tends to get listed under the heading of gambling; but the more brutal crime is that some poor store owner is being shaken down by a protection racketeer. And his tribute takes the form of having machines put in his store. He may despise the machines and make nothing off them; but that's the price he pays. If the laws against gambling were properly enforced, the "crime without a victim" might disappear, but the extortion might continue with payment taking another guise. It may hurt the extortionist somewhat to be denied his favorite medium of tribute; but we miss the point if we suppose that the only crime we're dealing with is gambling.

The machines and the laundry services and the other ostensible businesses that are used by the racketeers may also meet another need. That is the need for institutionalized practices, uniform arrangements, nondiscrimination, *et cetera*. If each victim privately pays cash, he has no way of knowing how his treatment compares with that of other victims; but if they all get their linen or beer or meat from the same monopolistic provider, or all provide their vestibules for similar kinds of machinery concessions, they know that they're getting standard treatment.

Incidentally, if news vendors, neighborhood store owners, or barbershops became universal victims of organized extortion, perhaps sharing their earnings and nominally receiving some services in return, perhaps paying extortionate prices for supplies or rent on their buildings, we would probably not describe haircuts and magazines and chewing gum as the businesses that organized crime was engaged in. We'd describe them as the victimized trades. We would distinguish the barbers and the news vendors from the personnel of organized crime. Even if The Organization helped to enforce union membership, uniform prices and uniform closing days; lobbied for legislation favorable to barbers, occasionally intervened on their behalf with their landlords, lent them money, and occasionally got them barbershop space in new hotels, we still wouldn't consider the barber a criminal or consider organized crime to be in the business of providing haircuts. We would not be afraid that a successful crackdown on organized crime would close up the barbershops and leave us no place to get our hair trimmed. We'd expect instead that prices might fall, just as if a heavy tax on haircuts had just been repealed.

This thought may put illegal gambling back into better perspective. It is undoubtedly true that, as Donald Cressey said in the passage quoted earlier, "if the confederation of men employed in illicit businesses were suddenly abolished, it would be sorely missed because it performs services for which there is a great public demand." But it is only true if we take the "confederation" to include the bookmakers as well as the racketeers who prey on them. Even then it is true only if we permit no newcomers to enter the business in replacement of the abolished "confederation." Even if the customer wants his bookie, he has no use for the organization that restricts competition in the betting industry.

I must at this point offer two qualifications, one substantive and the other a matter of point of view. The substantive one is this. Maybe bookmakers, prostitutes, loan sharks and drug peddlers, if left alone by the racketeers, would be unable to come to proper terms with the police and unable to engage in their businesses. Maybe corruption is best handled collectively, and an illicit trade consisting only of individualist competitors could not buy off the public officials. Perhaps they would be unable to form their own organization: nobody likes

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to pay dues, people may drift in and out of the business, some may have satisfactory arrangements and no need for the union. In that case it might be worth a fairly high price to have discipline and organization imposed from outside. The Organization may levy a high tax once it imposes its own governance on the gambling business, but a high tax may be better than no governance at all.

Conceivably, then, bookmakers gain by being victims of a predatory organization; without it they would have no organization. Furthermore, much of the tax, perhaps most of it, may be passed along to the customer. Gasoline stations do not suffer enormously when gasoline taxes go up a nickel; they suffer only to the extent that motorists reduce their driving because of the higher price of gasoline, and on the whole the tax gets passed along to the buyer. Thus the direct victim of extortion is the bookmaker or prostitute, or the barber or the restaurateur; but if the tax is uniformly levied on all bookmakers or restaurateurs, and if it is a tax on transactions and not on residual profits, it probably is passed along so that the one who "pays" the tribute is the customer, not the nominal taxpayer. Just as the tenants in apartment houses "pay" the property tax, although the landlord forwards the check to the tax collector, the person who places the bet receives less favorable odds than if bookmaking were a purely competitive and "untaxed" consumer service.

The second qualification is that any organization can be viewed in different ways. It is possible to say with some truth that General Motors does not produce automobiles; the Chevrolet and Pontiac divisions do. Many businesses, small and large, are decentralized; General Motors may deliberately allow the Chevrolet division a good deal of autonomy, just as Chevrolet grants its sales agents so much autonomy that they are considered to be "authorized dealers," dealing in their own names, rather than branches of Chevrolet. Many firms let their salesmen work on commission; farm owners often prefer going shares with a tenant rather than hiring him for a wage. Many hotel and restaurant chains lay down architectural and other standards, but do not directly manage the individual establishments that bear their names.

By analogy, one could say that organized crime is indeed in the gambling business but finds it expedient to run that business by licensing individual bookmakers rather than by hiring them as employees. It may even do it on an "open shop" basis, according to which anybody can get into the business so long as he pays the franchise tax. A specific test might be whether The Organization could move into a locale where there was no offtrack betting and establish a bookmaking business, and if so whether it would own and operate the business or instead set it up in the familiar pattern, inviting independent operators to operate under the "protection" of the racketeering organization, which would protect them from molestation either by police or by rival organizations. If it did the latter, we'd have to admit that although the arrangement has all the characteristics of extortion, and may often arise directly out of extortion, it can also be construed as a monopolized business in which independent operators are allowed on condition that they pay standardized tribute to the licensing organization.

All of this has some bearing on the question, if gambling were made legal would it continue to attract racketeers? It is often alleged that organized crime is so skilled and experienced in the gambling business that it would have an edge over "legitimate" entrepreneurs, and would not only entrench itself in legitimized gambling but enjoy the greater profits that would go with enlarged business. One suggestion of this paper is that The Organization is not really skilled and experienced in the provision of gambling services. It is skilled and experienced in the *suppression* of rival gambling services, especially in suppressing rival *illegal* gambling by collusion with the police. Its success, with or without the police, is appreciably due to the inability of the bookmaker to seek the protection of the law. It is also due to the inability of the bookmaker to protect himself through corporate

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organization, trade association, and all the other ways that modern business protects itself from crude and petty interlopers, chiselers, and even racketeers.

Thus the important question is not whether the *bookmakers* would show up as the sellers of legal bets if offtrack betting were made legal. The question is whether The Organization could get a monopolized extortionist grip on the industry. That may not be an easy question to answer, but it is at least clear that some of the characteristics of offtrack betting that presently make it an ideal target for monopolized extortion would not be present if it were made as legal to bet in front of a television screen as it is to bet in the presence of the horses themselves. The history of prohibition and its aftermath in the liquor business strongly suggests that *organized crime* may not thrive or survive in the face of legal competition.

In any event, those among us who are so hypocritical as to want offtrack betting illegal, prostitution abolished, and the credit laws enforced, but still want to place their bets, visit the bawdy houses, and borrow on the side to preserve their credit ratings, needn't be afraid of a crackdown on organized crime. They may suffer, as Donald Cressey suggests they will, from a crackdown on gambling, prostitution and loansharking; they can benefit, though, from a crackdown on organized crime, just as the consumer always hopes to benefit from trust-busting.

The purpose of monopoly has always been to suppress, not to enlarge supply. People who like monopoly prices and punitive taxes on the naughty activities may be pleased that the long arm of organized crime reaches out and levies a tax on the retailer that is passed on to the consumer.

The consumers will prefer to see the activities become more freely competitive, whether by being released from illegality, or released from the grip of organized crime. So will those who dislike corruption, especially when it is centralized and regularized by large monopoly organizations that can build corruption directly into our institutions, rather than leave it to gnaw away at the edges.

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Age in the Mountains of November

CAROL CHRISTOPHER DRAKE

Diminishing, the frosty light
Winks into darkness beyond the Snake;
The hunters and the hunted trudge
Heavily down through crackling grass.
Cold on the hills drops the night.

It is time. The moon swims up
Above the clumping hunters, the tiny cars,
Above the valley where fog begins to blur
The river and the farther shore.
Surely they will come. It is time now.

Arrogant clouds, the dancing constellations
Singing out of the north! The geese, the snow geese
Vast in their frosty plumage!
The moon floats emptily. Where are they,
Those wings steadying and sweeping on the wind?

Above the fog, the night is powdered with stars.
The silence sharpens. And I remember
The hunters. Hearing every cracking twig
And frosty rustle of leaves, yet they claim
Never to have heard the trumpets of the geese.

Yet the geese have soared above them, year by year.
And now I fear. Not that the geese will not pass by,
White flurries chanting joy all night long,
No. The geese will come. But has the time come
When the man within me is deaf to them?

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From Revenge to Resocialization: Changing Perspectives in Combating Crime

DANIEL GLASER

Complaint about police, courts and prisons is far more frequent than awareness of how they became the way they are, why their objectionable features persist, and what new trends are emerging in them. Answers to all three questions in this chain must be procured if the answer to any of them is to be accepted with much confidence.

Our Policy Heritage

The idea of imprisonment for felons is fairly modern. Prior to the nineteenth century, execution by hanging or torture was everywhere more common than confinement as a method of achieving public revenge for felonies, including small-scale thefts or robberies. Flogging and branding were inflicted when death was not imposed. But these penalties were intended primarily for commoners, especially when their victims were of higher status. In the rare event of a noble judged guilty of offenses against a commoner, only acts of penance and restitution were prescribed as penalties. Although incarceration as punishment was introduced in Europe during the sixteenth century, it was then used almost exclusively for misdemeanants; "workhouses" were established in major cities to exploit the labor of "sturdy beggars," vagrants and debtors. Confinement for felonies prior to the nineteenth century was almost entirely pretrial—until guilt or innocence could be determined.

Imprisonment gained acceptance as a more appropriate penalty than death for most felonies only after the philosophies of the eighteenth-century democratic revolutions became firmly entrenched. The Enlightenment glorified every person's capacity for reason. On this foundation early nineteenth-century Utilitarian philosophy portrayed man as guiding his behavior by calculating the pleasure or the pain that each act would yield him. The spirit of the times also emphasized the value of liberty. Accordingly, criminal law reformers of this period recommended imprisonment because it employed deprivation of liberty as a punishment, and because it permitted precise measurement of the relative penalties for various offenses by expressing punishment in units of time. Reformers called for a government "of laws, not men," and prescribed a specific duration of incarceration for each particular type of crime, regardless of the social status of the offender.

The monastic movement in the Catholic church had previously endorsed meditation in solitude as the key to personal reformation and redemption. It pioneered the use of solitary cells for upper-class delinquents as well as for monks. America's Quakers, whose leaders—including William Penn—had suffered pretrial confinement in British gaols because of their religious beliefs, adopted monastic principles in their idea

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of a "penitentiary." They constructed spacious cells for solitary confinement. Prisoners were to be given only a Bible for preoccupation, and their visitors limited to clergy and other leaders of local morality. That these conditions fostered penitence more successfully than other programs was never proved, however, partly because pressures to save money by crowding prisoners and giving them hard labor made compliance with the Pennsylvania prescription short-lived in America.

From Offense to Offender

While the rise of democratic ideals in Western Europe and America produced a criminal law with specific penalties for each offense and no reference to the social status of the offender, the rise of social science stressed an individualized penology. This new field of study implied that the state's reaction should be determined by the character of the offender rather than by his crime alone. From mid-nineteenth century to mid-twentieth century this individualistic emphasis progressively modified the ideal of "making the punishment fit the crime" rather than the criminal. In our reactions to crime, however, the new and the old usually coexist instead of the old completely disappearing.

The major initial impetus for a scientific approach to criminals came from the theory of evolution. Applied to social events with optimistic distortion, this theory generated a view of mankind as progressing toward perfection. From this perspective, criminals were seen as atavistic throwbacks to a more primitive stage of human development.

At first it was assumed that an offender's lower level in human evolution would be evident in his physique. Prison physicians "proved" this with articles on "criminal types," illustrated by details on the apelike ridges and other "stigmata" in individual cases. "Criminal anthropology" became a standard specialty in late nineteenth-century European medical schools, and it was from a journalist's contraction of this phrase that the word "criminology" was coined. The comparative anatomy approach was dealt a severe blow, however, when, instead of merely citing illustrative cases, some scientists compiled statistics on physical trait distributions. The alleged criminaloid features proved to be as frequent among university students as among prison inmates. The most prevalent explanation for crime in the first quarter of the twentieth century nevertheless remained "constitutional mental defect," although the assumption that such defects could be correlated with anatomy was gradually abandoned.

In the second quarter of the twentieth century the growing influence of psychoanalysis, psychiatry and psychology extended the movement toward the guiding of penal practice by the individual characteristics of offenders, but with some alterations. The biological interpreters of crime had called upon judges to impose long terms of confinement, regardless of the current offense, on those deemed inherently prone to repeat their crimes. The clinical psychologies, however, implied an offender's ability to change in response to treatment, and thus justified deferring the decision on conditions and duration of confinement. Instead of judges specifying the place and program of imprisonment, penal administrators were given more authority to determine where and how incarceration would occur. Also, parole boards were established and were given increasing discretion to determine the date of each inmate's release. Thus impressions at the time of the trial could be modified after observation of the offender's behavior while confined. Individualized treatment in prison and parole were seen as keys to both reformation of criminals and protection of society.

While cases of individual prisoners apparently benefiting from a penal institution's vocational training or other programs have been reported, postprison crime rates have rarely been shown to vary markedly or consistently with differences in the treatment of offenders. This is so because some strategic aspects of a state's total reactions to a person convicted of crime are not altered greatly when changes occur in proclaimed correctional philosophies. Isolated changes have limited impact because

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of the multiplicity of purposes affecting state reactions to crime, and because of the diversity of offenders and of agencies that process them.

The Variety of Correctional Purposes

Official justifications for our treatment of criminals usually express one of four objectives: to make people "pay" for their crimes—in short, vengeance; to deter others from committing crime, that is, to frighten would-be criminals; to incapacitate dangerous persons; or to reform offenders. Failure to pursue any of these objectives to the maximum conceivable extent is usually explained by citing various constraints, such as interest in economy, in being humane, or in preserving constitutional rights. Other influences on policy must be inferred, however, to account for what actually is done with criminals. These latent or unofficial purposes include making the work of officials easier, maintaining public support for a political administration, and keeping prisoners docile. It will be argued later, especially for corrections, that unvoiced latent concerns are often more influential than proclaimed official purposes and that the latent concerns account for much of the failure to achieve proclaimed objectives.

Today an interest in vengeance is usually disavowed by correctional administrators, but such an interest is frequently evident in the arguments given by legislators and judges when imposing severe penalties for some crimes.

Deterrence of potential offenders still is sought, but its achievement seems more a function of certainty than of severity of penalties when an offense is deliberate; thieves and burglars do not plan their crimes to procure a minimum sentence if caught, but so as not to be caught at all. On the other hand, the prospect of punishment is largely ignored when people are driven by intense passions, as when a furious person seizes a lethal weapon, when a drug addict is sick from withdrawal symptoms, or when a sexually dangerous person is crazed by lust.

Incapacitation of allegedly dangerous persons is the only one of the four official purposes that prisons achieve fairly successfully, since few escape and most of those who do are promptly apprehended. But confinement is inhumane and expensive; it is justifiable only so long as a prisoner remains dangerous. Therefore, the only correctional improvements that can markedly advance achievement of official goals are those that enhance reformation and those that make diagnosis of potential dangerousness more accurate.

During the third quarter of the twentieth century, there have already been far more rigorous research and experimentation in correctional practice than in all previous time, but they have not provided the hoped-for simple solutions to our crime problems. Indeed, science has been more useful in demonstrating what does not work than in prescribing remedies. The reasons for this disappointment are becoming increasingly evident, and somewhat more promising approaches are emerging. Experience indicates, however, that efforts to improve correctional effectiveness will not be very successful if they deal only with persons already defined as criminals; one must also examine the processes and agencies that so define them.

Chaos in Our Crime-Fighting Agencies

The greatest impediments to changing criminals in today's society are not so much the complexities of society and of criminals as the irrationalities, inconsistencies and incoordination of the agencies for reaction to crime. This chaos begins with the legislatures' definition of what the courts should call crime, is intensified at the local level in police and court operations, and culminates in correctional systems.

Laws declaring certain behavior to be crime, hence warranting punishment of its perpetrators, have historically had two main trends: one is fairly systematic and the other is haphazard. Acts in which some persons consider themselves and are regarded by others as definitely victimized have been continually added to the designations of crime. These definitions of crime accumulate because technological develop-

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ments repeatedly create new modes of victimization—such as check forgery, stock manipulation and airplane hijacking—that could not exist in a simpler culture. Laws against victimizing activities are occasionally reformulated but are rarely eliminated. The same applies to laws on victimization of others through negligence, as in drunken driving or careless construction. The trend in these laws is orderly, in that it is almost entirely cumulative, despite many variations of formulation.

Discontinuities in the definition of crime come primarily from legislation imposing penalties for acts that some members of society regard as morally offensive, or as damaging to the participants, but in which hardly any of the participants regard themselves as victimized. These "crimes without victims" range from homosexuality to drug use, from abortion to gambling, and from public drunkenness to obscene performances. Laws against such behavior become extremely disruptive to efforts at reformation of both victimless and victimizing offenders whenever much of the population indulges in the victimless crimes. Because only a minute proportion of victimless crimes sends complainants to the police, these laws can be enforced against only a small fraction of the offenders. This small fraction, however, sometimes is enough to overload our machinery of justice, as in current marihuana law enforcement.

The most socially disruptive victimless crimes are those that create lucrative business opportunities, as in drug sales or gambling services. Public demand for illegal goods or services can be met only by entrepreneurs willing to operate outside the law. Therefore, legislation making the sale of these goods or services criminal provides wealth and a tremendous power to corrupt to those with least scruples about law violation, particularly those already experienced in victimizing crimes. They become especially powerful by forming criminal organizations, not only to provide illegal goods and services more efficiently and securely, but also to obtain competitive advantages in other businesses through their capacity to terrorize and exploit.

A second major source of chaos in societal reaction to crime is our system of local trial courts and their relationship to the police and to presentence confinement. Police, on the one hand, have been pressured by Supreme Court decisions of the 1960s to be more deliberate than had usually been their custom in protecting the rights of those whom they suspect of crime; if they do not warn a suspect of his right to counsel and his right to refrain from answering questions, if they arrest without probable cause, or if they search beyond the immediate area of the arrestee without a warrant, they become subject to humiliation in court. On the other hand, the public pressures the police to control crime, especially the most difficult crime to control, that which is victimless. Accordingly, there has been a rise in the percentage of cases in which police harass without arresting, arrest but make no prosecution effort, or process the arrestee to court expecting that charges will be dismissed there. These trends have developed because police performance is evaluated primarily by the police themselves through their "clearance rate," which is the proportion of complaints that they decide are cleared by arrest or other action, or are—in their opinion—unfounded. When police performance is not evaluated by the courts, there is less police motivation for lawfulness in procedure. Judicial efforts to make the police more lawful by imposing greater procedural complexities in their tasks may simply mean that the police seek convictions in a smaller percentage of the matters they handle, and become more lawful in these, but are more lawless in the ever-growing remainder.

The courts bring together a peculiar combination of personal interests among lawyers. First of all, there are self-employed lawyers and law firms that earn more money the more they extend litigation. Secondly, there are judges and prosecutors nominated primarily on the basis of the good will they can generate among contributors to political campaigns, and elected mainly by party affiliation. The public rarely knows anything of their qualifications for their positions. As a result of this

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combination there has evolved, especially in the criminal courts, a collusion among prosecutors, judges and defense counsel to dispose of the overload of court business with a maximum of reward and a minimum of stress to all the legally trained persons involved, even if this produces a grossly inequitable distribution of justice.

Because defendants are expected to plead guilty only if charges are reduced, police and prosecutors habitually make charges severer than those on which they expect to convict. Bail, however, is fixed by the offense charged, so severe accusations increase fees for bondsmen, who usually are large contributors to political campaign funds. Wealthy and sophisticated criminals can pay bail and retain lawyers to delay and impede judicial efforts to arrive at truth. Indeed, one of the most regularly accepted grounds for delay when requested by defense attorneys in Los Angeles courts is identified only as "Rule Number One," a private joke there for a practice reported in many cities, which is to ask the judge to delay the case until the client pays his attorney's fees. Vested interest is the greatest barrier to court and bail reform.

As a result of high bail, the less affluent accused in America are stored for months in local jails awaiting trial. They are crowded into large cages, kept in complete idleness, with a single guard supervising several cages. Therefore, brutalization of all inmates by the most aggressive inmate cliques in each jail cage is architecturally and administratively assured. Release from jail is obtained for most only by pleading guilty; even transfer to begin a state prison term is often attractive when the alternative is to remain in jail, uncertain about one's ultimate trial outcome. Therefore, guilty pleas are given much more readily by the accused in jail than by those released pending trial. Guilty pleas are also more readily made by those with state-supplied defense counsel—who have less personal interest in delays—than by those who retain private lawyers.

Corrections are the third area of chaos in reaction to crime. Discrepancy of practice from precept is often greatest in establishments whose leaders most vigorously voice rehabilitation-centered ideologies; the similar latent interests of personnel in particular types of positions often make their practices similar even when the proclaimed goals of their respective organizations differ. Although reformers assert that employment training will enable prisoners to support themselves legally on release instead of by stealing, it is often politically inexpedient for their institutions to employ prisoners at tasks that compete with private business, and it is easier on staff to work inmates at an indolent pace—or not at all—than to simulate the work requirements and incentives of the outside world. Reformers presume that counseling and psychotherapy may help offenders cope with their problems in society, but in prisons these services tend to be oriented primarily to adjusting their clientele to institutional life. Overcoming deficiencies in education is presumed to be necessary for the rehabilitation of young criminals, but recreational pursuits are less stressful to both inmates and staff of institutions, so the time allotted to play may greatly exceed what a self-supporting life on the outside would permit. The most important deficiency of institutions, however, is independent of latent staff interests: although criminal values are presumed to be acquired mainly through the predominance of criminal over anticriminal influences from one's close associates, incarceration necessarily segregates offenders from law-abiding society, and often in a manner that maximizes their cohesion with others of similar criminal backgrounds.

Arguments for the use of probation or parole usually stress that it gives offenders assistance and control not in an institution, but in the community where their noncriminal life must be achieved if they are to be considered reformed. In practice —especially in probation—the officers' sense of accomplishment and their superiors' assessment of their work depend much more on the reports they prepare than on the services they perform for offenders. If caseloads are reduced to encourage work in the community, officers focus more on in-

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vestigation than on assistance, for they are still mainly oriented to what is visible to their superiors—their reports.

Perhaps the most conclusive evidence that courts and correctional agencies are more oriented to latent than to proclaimed purposes is their slowness in procuring guidance from research. While rehabilitation presumably can be ascertained only by determining whether or not criminals persist in crime after their judicial and correctional experiences, most judges and correctional officials have rarely or never tried to have prisoners' records systematically traced to assess the effectiveness of their sentencing or treatment policies.

Emerging Solutions

For a variety of reasons, crime will probbably always be with us. Some contend that it will increase steadily in a cataclysmic crescendo, and others speculate that it has a fairly constant rate in all societies. I find it not farfetched to believe that we can achieve a more sensible society, and hence one with less crime, by focusing on such achievement as our objective. A sensible society would reduce the chaos just described. In many respects, this reduction has already begun.

In reacting to distasteful but not clearly and consistently victimizing behavior, we seem to go through a cycle. First, we try to prohibit this behavior by means of criminal law. If this effort is patently unsuccessful, we cease even trying to enforce the law, as in the ancient but rarely used antiadultery legislation of most states. If the vain effort at enforcement severely corrupts and overloads the criminal justice system, and haphazardly stigmatizes otherwise respected citizens, we shift from prohibition to an effort at regulation merely by licensing, forbidding availability to children, restricting advertisement, and educating against excessive use. We went through this cycle in reaction to use of alcoholic beverages, highlighted by passage of the Eighteenth Amendment to the United States Constitution in 1919 and its repeal by the Twenty-first Amendment in 1933. We have moved in the cycle considerably in recent years with respect to gambling, and seem now to be moving away from prohibition as a means of control for marihuana and other drug use. Besides, we are becoming more tolerant than ever toward diversity in taste, from clothing to sexuality. Increasingly, we let everyone "do his own thing" so long as he does not thereby hurt others.

Our police and courts have become less immune to criticism than ever before and more receptive to systematic research and innovation. They still have far to go, but there are strong beginnings in what properly can be called scientific guidance for almost all aspects of organization and practice in these agencies. Ten years ago this did not exist in more than a minute fraction of its present extent, and the rate of change is accelerating. What now is most crucial is not their receptivity to research so much as completion of a historic trend in their conception of their mission and of their relationship to the rest of society.

British and American police evolved from watchmen. First they were organized as local volunteers, then they were a private service that merchants could hire, and finally—in London in 1829—they became municipal employees. Their organization as city government units contrasts with a national quasi-military police in most other countries. They are supplemented by miscellaneous special police units such as the F.B.I., and by an older but much smaller Anglo-American police form, the county sheriffs who only patrol unincorporated areas and handle prisoners for the courts. The "watchman style" of policing, as James Q. Wilson calls it, is characterized by high subservience to politicians, frequent corruption, low education and low pay with little education or pay differential among officers of different rank, and chiefs recruited only from within the force.

Since World War II most of our cities have shifted, to a greater or lesser extent, from the watchman style to what Wilson calls a "legalistic" and others call a "militaristic" style of policing. There is an emphasis on discipline, professional pride, and impersonal relations with the public.

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There is an endeavor to reduce or eliminate traditional police functions other than law enforcement, such as chauffeuring politicians and knowing slum neighborhood delinquents, storekeepers and housewives on a personal basis. The militaristic model is evident in high stress on technology, in promotion and higher pay being contingent on formal training, in national recruitment for all ranks, and, especially, in a spirit of war against law violation. This spirit becomes especially manifest in policemen's reactions to what they perceive as illegal assemblies, where their tactics are to initiate the use of force, much like a wartime army unit in an enemy city.

What Wilson calls the "service style" has become prominent in newer suburbs since the 1950s, and has been growing rapidly in some large cities recently where the militaristic model was grossly discredited in crowd control and minority group relations. This service approach to policing emphasizes promotion of public good will, and recognizes that police are the only agency available at every hour of every day for any kind of emergency service, from mediating domestic disputes to procuring medical aid. Much discretion is given police in handling misdemeanors and juvenile delinquency by conciliation or assistance rather than by law enforcement. Finally, in optimum big city crowd control—perhaps most evident in New York—there is an effort made to isolate contentious assemblages so as to limit their growth and avoid disruptive encounters, but to facilitate rather than impede their nonviolent expression. Most police forces still have an excess of secrecy and a resentment of criticism surviving from the watchman style, as well as many officers with an excessive rigidity in petty enforcement and a proclivity to overreacting with force, surviving from the legalistic-militaristic style. Such hangovers from the past, however, are repeatedly battered by the press and the public, with some effectiveness.

The courts are perhaps our least successful major institution, if one equates success with precise and efficient achievement of goals. It is slight consolation that they err more in releasing the guilty than in convicting the innocent; they operate too often with unjustifiable slowness, unwarranted cost to the poor, callous inconveniencing of complainants and witnesses, and gross inconsistency in truth determination. Perhaps an ideal solution would be to evolve some blend of the European continental model of trained civil service career judges and prosecutors oriented to truth-seeking rather than to adversary sport, with the British model of a highly selected and disciplined set of barristers, minimum pretrial arrest, and little unnecessary delay or histrionics in selection of juries and trial procedure. Our movement in these directions has been slow. In the past decade about a dozen states made judicial appointments nonpolitical, there has been considerable replacement of bail by release on recognizance—with pretrial training or employment assistance where needed—and, in general, there is more concern with court inadequacies than ever before. Currently, our greatest sources of hope for the courts are marked growth of public service orientation in our law schools, the blending of social science with legal research, and increased funding of innovations by government and foundation grants.

In shifting from a revenge to a reformation emphasis, corrections still focused on individual offenders. Their behavior, however, was increasingly ascribed to their community relationships, commitments and rewards rather than to their personal traits alone.

Most arrests for felonies against property in the United States are of persons under eighteen charged with theft or burglary, usually in groups of two or more associates. Their crime expresses deviation from the prescribed pattern of socialization in our culture, whereby children prepare in school for self-sufficiency as adults. Most people engage in some crime during adolescence, but the longer and more competitive is the required schooling and the more separated adolescent society is from older persons, the greater is the probability that adolescent deviance will be marked and long-lasting.

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Crime is one way of perceiving oneself as an independent and self-sufficient adult, so it is especially attractive to adolescents who find schooling unrewarding or for other reasons are in conflict with adults.

As far as we can determine from criminal record data, most persons cease engaging in felonious conduct as they grow older. The earlier they are arrested and the more they are segregated from conventional persons by confinement in institutions, the longer their criminality persists. Conversely, the longer they are economically and socially successful in conventional pursuits, the less likely they are to jeopardize their stake in conformity by engaging in crime. In response to the growing evidence of this, there has been a rapid increase in the proportion of convicted offenders on probation or on parole rather than in institutions.

It is increasingly recognized that persons of any age who drift into crime when predominantly committed to a law-abiding life are much less likely to become socialized to criminal values if released promptly on probation than if confined in an institution in the exclusive company of other offenders. For those whose dangerousness makes their incarceration essential to the public's safety, resocialization to conventional values and more prospects of success in legitimate pursuits have been enhanced by programmed education with monetary incentives, more inmate responsibility for institution administration and discipline, graduated release to schooling or employment in the community, and supervision by ex-offenders. There is also growing reliance on objective research for policy guidance, especially in the District of Columbia. A crucial aspect of correctional success, however, is employment opportunity in the outside community, a problem beyond the control of correctional programs.

The historical periods with most rapid rates of change toward an envisioned ideal are also the periods when discontent with the slowness of change is most intense. This is evident in many fields, from race relations to poverty alleviation, and in all aspects of our criminal justice system as well. We benefit from discontent, however, only if the changes it fosters are not isolated, but are part of a system of mutually supportive alterations. Thus decriminalization of nonvictimizing offenses reduces the burden of police, court and corrections, and eliminates a major source of public disrespect for these agencies. The same benefits accrue to courts and corrections from the police's changing to a service style of operation. We benefit from alterations also only if they provide rewards to functionaries primarily for their provision of the services we desire; otherwise, unanticipated harmful consequences frequently follow reforms. Institutionalization of scientific evaluation—making funds for interdisciplinary research and experimental developments several percent of the national budget for police, courts and corrections—is the best way to guard against stagnation or deterioration.

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Toward Juvenile Justice

BIRCH BAYH

An address given July 12, 1971, to the National Council of Juvenile Court Judges

Less than a month ago, the United States Supreme Court handed down a decision in *McKeiver* v. *Pennsylvania* holding that there was no constitutional right to trial by jury in the adjudicative phase of a state juvenile court proceeding.

Some have said that this decision vindicated our present juvenile court system. But no one who has carefully studied Justice Harry Blackmun's opinion can jump to such a conclusion. For the decision read:

> There have been at one and the same time, both an appreciation for the juvenile court judge who is devoted, sympathetic, and conscientious, and a disturbed concern for the judge who is untrained and less than fully imbued with an understanding approach to the complex problems of childhood and adolescence. There has been praise for the system and its purposes, there has been alarm over its defects.

Justice Blackmun further pointed out:

> We must recognize, as the Court has recognized before, that the fond and idealistic hopes of the juvenile court proponents and early reformers of three generations ago have not been realized. The devastating commentary upon the system's failures as a whole, contained in the Task Force Report: Juvenile Delinquency and Youth Crime, reveals the depth of disappointment in what has been accomplished. Too often the juvenile court judge falls short of that stalwart, protective and communicating figure the system envisaged. The community's unwillingness to provide people and facilities and to be concerned, the insufficiency of time devoted, the scarcity of professional help, the inadequacy of dispositional alternatives, and our general lack of knowledge all contribute to dissatisfaction with the experiment.

Whether we agree with Justice Blackmun's conclusions or not, we should recognize the alarming accuracy of the grim picture he has painted of the juvenile court system. The idealistic experiment that began over seventy years ago in Illinois has, tragically, not lived up to its promise.

The warning is sharp and clear. No one who reads the complete *McKeiver* decision can ignore the ultimate threat implied by the Court. As Justice Blackmun said, "If the formalities of the criminal adjudicative process be superimposed upon the juvenile court system, [then] there is little need for its separate existence. Perhaps the ultimate disillusionment will come one day, but for the moment we are disinclined to give impetus to it."

For those of us who believe that the role of the juvenile court is an important one, the challenge is great. We cannot continue to operate on a "business as usual" basis. Thus this conference is vitally important. For it is here that we can begin to meet that challenge. True, it is only circumstance that has gathered us here so soon after the *McKeiver* decision. But *McKeiver* or not, this convention is evidence of the continuing dedication on the part of the most vital element in the juvenile justice system—the juvenile court judges.

No issue in America today is the source of more individual or national concern—none has a higher degree of political volatility—than the questions of law and order and justice. Too many of our citizens are afraid. And in many instances, unfortu-

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nately, there is good reason. Too many of our citizens believe that equal justice is being denied them and in many instances, unfortunately, there is good reason to believe that.

As a result of these growing concerns, there has been an increased demand for action, an intensified search for the panacea to the crime problem. But the average citizen who is alarmed about the safety of his wife and children and the security of his home is unaware, ironically, of the degree to which the increase in crime is directly attributable to juveniles. He is just as unaware of the fact that the juvenile justice system—a system designed to solve the problem of juvenile crime—all too often compounds it instead.

I'm not an alarmist by nature. Nor do I want to sound like a Cassandra, spouting prophecies of doom. But the numbers don't lie. The number of youthful offenders is the most alarming aspect of today's national crime problem. The facts speak for themselves.

During the 1960s violent crime by children under eighteen increased by one hundred and forty-eight percent. Property crimes, such as burglary, larceny and auto theft increased by eighty-five percent. Persons under twenty-five now account for more than fifty-nine percent of the crimes of violence and for eighty-one percent of the property crimes each year. The recidivism rate for juveniles is nearly seventy-five percent, even higher than the rate for adult criminals. Last year alone, the cost of juvenile crime was more than four billion dollars.

Many of these juvenile offenders pose a very real threat to society. For them, institutionalization may be the only answer. But as important as it is to identify those youthful offenders who must be isolated from the community, it is even more important to identify those juveniles who should remain in the community. More than one-half of the children presently being held in detention centers, training schools and other correctional institutions have never even been charged with the equivalent of an adult crime. Children labeled "incorrigible," "neglected," "truant," "runaway," and "in need of supervision" have come before juvenile courts all across this country in need of attention and guidance, only to be institutionalized and isolated, with little or no hope of ever receiving proper care, simply because it doesn't exist.

How does the juvenile justice system deal with the critical, many-faceted problems of juvenile delinquency and juvenile crime? In some instances, it is not juvenile justice that is dispensed but an injustice perpetrated on juveniles. Seldom do we find in practice the kind of humane and compassionate rehabilitation efforts at the heart of the original theory of the juvenile court.

Here are a few stories I am sure have a familiar ring to all of you.

Susie, a twelve-year-old girl who had run away from home to escape her stepfather's sexual advances, was sent by the juvenile court to a juvenile correctional facility as a "person in need of supervision." Once there, she became the victim of sexual assaults by the older girls as well as the counselors. When she fought back, she was put into solitary confinement in a strip cell for several weeks. She was fed on a meager ration of bread and water, given nothing to read, and only thin pajamas to wear. As her anger increased, so did her custodians' assessment of her unmanageability. She was eventually transferred to a state mental institution where she is still in custody.

Paul, eighteen years old, originally entered the juvenile system at age twelve for being habitually truant from school. His mother had ten children at home and so she eagerly agreed to commit him to the jurisdiction of the court. For lack of more suitable facilities, Paul was sent to a state training school, where overcrowding and inadequate resources made a regular educational program or adequate guidance impossible. While in the institution he picked up a heroin habit from the older boys. Back on the street several years later, Paul became involved in serious crimes to support his habit. Convicted of armed robbery, he is now an inmate in an adult prison.

George, a sixteen-year-old, had been remanded to be tried as an adult on three forgery check counts. The charges had been filed by his father. He was held in the ado-

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lescent remand center—something straight out of a Humphrey Bogart movie of the 1930s, with steel-barred tiers and cages. Here young men between the ages of sixteen and twenty-one are held until trial. For many of them, it means a stay of four to eight months, even though they have not been judged guilty of any crime.

George had a drug problem. His father knew that he had been on heroin and had sought to have him enrolled in a local drug treatment program. He was put on the "waiting list." While awaiting treatment he was arrested for forging checks to support his drug habit.

Most Americans are simply unaware of these shocking conditions—conditions in which more than one hundred thousand children are held each year. And, I might add, that even some of you judges may not be fully aware of the deplorable, dehumanizing conditions in far too many of our juvenile institutions. We could hardly expect the average citizen to know that thousands of juveniles were held as inmates in county jails all across the country last year. In ninety percent of these jails there were no educational facilities; in eighty-seven percent, no facilities for exercise or other recreation for inmates; in fifty percent, no medical facilities; in twenty-seven percent, no visiting facilities; and in forty-six percent of the jails, there were no operating flush toilets.

It was not until I personally visited several juvenile detention facilities and talked to the juvenile inmates myself that I fully realized the human meaning of these statistics. If the American public could see what I have seen and could talk to these children, then we might begin to arouse the national conscience and stimulate the kind of national concern needed to bring about long overdue, massive changes.

The continued existence of the present juvenile justice system can only mean that youthful offenders will be faced with the worst of both worlds. First, the informality of present juvenile court procedure and the slowness in implementing the Supreme Court's decision in the *Gault* case means that many of the vital guarantees of due process are denied thousands of juveniles whose fate is decided in juvenile court. Second, the system has failed to provide the necessary social and supportive services so vital to a compassionate rehabilitation effort.

So much for describing the problem. You confront it every day, and so I implore you to share your personal experiences, your advice and counsel with me. What can those of us in Washington so concerned about these problems do to assist you in coming to grips with the complex issues so greatly oversimplified by the catch-all term "juvenile delinquency"?

By the same token, I want to ask you to accept, in the spirit of cooperation, the thoughts that I have about how, working together, we can begin to make some real progress.

My suggestions are just that, suggestions —not a complete master blueprint for solving juvenile delinquency. I offer them to you as building blocks that can be implemented individually or collectively, but, what is most important, selectively, in a variety of programs designed to deal with the individual problems of youthful offenders.

First, we must continually remind ourselves and our communities that the basic impulse behind the juvenile court system is rehabilitation—not incarceration. It is much better to build schools than penitentiaries. We must prevent the tragic practice I witnessed recently on Riker's Island. There a manpower training program had successfully reduced recidivism from seventy-four percent to twenty-three percent. But this year more than one million dollars worth of equipment lies idle because the three hundred thousand dollars needed to run the program are nowhere to be found.

Second, we need to develop pre-judicial disposition alternatives for the great bulk of juveniles referred to juvenile court and then institutionalized, who have committed no crimes, pose no threat to society, and whose only hope for rehabilitation lies in community-oriented programs.

Third, we must provide more highly individualized care and attention.

Fourth, facilities, insofar as possible, should be community-oriented and not

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isolated. The young offender is a young offender precisely because of a social maladjustment, and so his rehabilitation depends upon a successful adjustment to society. That adjustment cannot take place while he is isolated in an institution.

Fifth, in many cases the home itself, with proper professional guidance and supervision, offers the best hope for rehabilitation. But in order for such a program to work effectively, a significantly larger number of trained professionals is required.

Sixth, children whose delinquent behavior stems from emotional problems and poor family environments must not be commingled with juveniles who have committed crimes. Far too many so-called problem children are in fact the products of problem parents, parents who refuse to accept the vast responsibilities of parenthood and willingly delegate these responsibilities to state institutions. Bringing the full weight of the law to bear on delinquent parents is often a better solution than institutionalizing the so-called delinquent child. It is here that social sensitivity and judicial temperament become essential ingredients in the juvenile justice system. The judge must decide whether it is the child that is incorrigible or the parents.

Seventh, a comprehensive effort at juvenile rehabilitation must include an effective drug treatment program. I have visited institutions where more than half of the inmates were hooked on heroin before incarceration and yet few, if any, of these institutions have drug treatment facilities available. Therefore, I recommend that we utilize the three hundred community mental health centers to bring adequate drug treatment closer to those in need. Congressman Paul Rogers of Florida has made a similar suggestion in the House.

Eighth, the success of any program depends for the most part on the human beings who run it. We must improve both the quality and quantity of human resources dedicated to helping young Americans in trouble. Today, there are still too many poorly qualified judges determining the fate of young lives. There are too many highly qualified judges relying on inexperienced, often nonexistent, professional staffs. There are too many highly motivated probation officers whose caseloads and responsibilities defy adequate personal attention.

Ninth, we must begin now to invest the necessary resources, both human and physical, to deal meaningfully with this problem. We are not doing enough now. This lack of urgency at the federal level is particularly dramatic when we look at the funding history of the Juvenile Delinquency Prevention and Control Act of 1968. As you know, the Department of Health, Education and Welfare is charged with the responsibility of administering the act, a responsibility that it has discharged with questionable competence. Although Congress provided substantial authorizations in the act, H.E.W. never requested anything approaching the authorized levels. Both in 1970 and in 1971, only fifteen million dollars were requested, even though the total authorization for those two years was one hundred and twenty-five million. This fiscal year, H.E.W. has requested even less than it has in the past: ten million out of an authorized amount of seventy-five million. No one can fail to conclude from these dismal facts that juvenile delinquency is at the bottom of this administration's list of national priorities.

Tenth, we must mobilize public opinion because we cannot develop an adequate public response to these complex questions until the public is made aware of the problem. Naturally, these determinations will be made in the political process because that is what a democratic society is all about. There may be some of you here today who feel that it is not your responsibility to work in the political process to bring about necessary changes—to improve conditions in juvenile institutions and to increase the amount of resources devoted to delinquency prevention and rehabilitation. You may feel that it is up to the legislatures, state and federal, to make these decisions. That attitude on the part of the juvenile court judges, if it were to prevail, would be as irresponsible as it would be for a United States Senator to stand here and suggest that the Congress has no role to play in improving the administration of justice.

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So I urge that in every juvenile court system in this land a blue ribbon panel of juvenile court judges be formed to investigate the administration of juvenile justice in its entirety and to make public their findings.

Unless the juvenile court judges are prepared to roll up the sleeves of their judicial robes and get off their benches, there is no hope for the kind of broad-based public response that the problems of juvenile delinquency and crime require.

In the *McKeiver* case the Supreme Court granted the juvenile court system a reprieve. In the days and months ahead, it is our task to secure a full pardon.

Buzzards

EDWARD KESSLER

for William Raney

Bill, as I was driving from the south,
I saw at least a dozen buzzards
Loitering in the bone dry air.
Out of that dusty, scrub pine land
Incongruously your image grew,
Drinking away your Plaza afternoons.
Nothing in common with those common birds,
Except that they love death, and you are dead.

I stopped the car, never having seen
So many birds together, turning and turning
In a cloudless sky. I couldn't imagine
What carcass could awake such epic hunger.
And I thought of how the ravenous words
Of all their letters descended like birds,
Trying to make sense of your famished flesh,
Loyally trying, until the bones came clean.

EDWARD KESSLER's *Images of Wallace Stevens* will be published this fall by Rutgers University Press. Mr. Kessler is an associate professor of English at American University.

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PRISONERS SPEAK

Delta Prison

JOHN T. FARGASON, JR.

"Where we goin', you reckon?" asked a worried boy, sitting in the back of the closed hospital van. There were seventeen of us, six to a side on benches and five who stood and kept their balance by pressing their hands against the roof. Heavy wire mesh separated us from the two trusties up front, the driver and the guard.

"Who gives a goddam, jest so we're gittin' away from that stinkin' hospital!" answered the man beside him. We were all new men, and, upon entering the front gate of the prison, had been sent directly to the hospital for routine processing. This consisted of a physical examination, which was to be expected, and of having our heads shaved to the skull, which came as a humiliating surprise to many of us. It was the first of many such surprises. The ward where we were kept was filthy and depressing, a zoolike cage with bars and a zoolike smell. The attitude of the staff was antagonistic and hostile, and after five days we were glad to get away, yet fearful in our ignorance of what was to come.

"We're goin' to the Reception Center at Camp Nine," volunteered another man. "I hear they'll keep us there about a month, long enough to ask a bunch of dumb-ass questions. Then after the nut doctors have decided we're all underprivileged boys who need rehabilitatin', we'll be sent to the long-line to chop cotton come next summer."

"How in hell you know all that, for God's sake?"

"I'm a parole violator. They didn't have all this kind of crap when I was here before. When we come in we jest went straight to whatever camp needed men. That's why I got to do it now with you guys. Biggest bunch of garbage I ever heard of."

Camp Nine is situated on a gravel road, well away from the main headquarters of Parchman. Like all but a few of the camps, it consists of a one-story, red brick building containing two cages, one on either side of an entrance hall, followed by a mess hall and a kitchen. At this camp, however, the mess hall had been converted into a group of offices for the rehabilitation counselors and psychologists. A shed had been constructed off the kitchen, and it was here that the inmates were fed. It was unheated and, in February, very uncomfortable. There were three long plank tables with benches attached to each side, at which we ate. If too many men sat on one side, the table tipped over.

The cage I occupied measured about fifty feet each way. To accommodate the influx of new prisoners, it was necessary that the double-decker bunks be pushed together, and lined against all four walls. The center of the room was filled with single cots jammed against one another but with narrow aisles kept open so men could get around without walking on each other's beds. High on one wall was a television set, which stayed turned on as long as there was a program to watch. This room was my home for a month. Prisoners stayed as long as the staff needed them for processing, and

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our population was always changing as the interviewers completed their work.

The first time I entered the cage I had not taken more than five steps when a short, squat man came up to me and stuck out his hand. "My name's Frank Rodgers, Mr. MacDonough. I been readin' about your case in the papers. Good to meet you! You made out better than me; I got life for doin' the exact same thing you done." The man who spoke was older than I was, and rather fat. He was bald-headed and tired-looking, but he was friendly and I tried to return the broad smile he greeted me with; I did not quite manage it. It had grown dark outside, and when the lights of the cage came on, the men inside seemed to grow louder in their talk. I attempted to relax some of the tension that plagued me. The crowded room made me think of a box full of snakes.

"Good to meet you, Frank," I said. "My name's MacDonald. You spell it with an a-l-d. But it is kind of like MacDonough. Where's an empty bed?"

He showed me one, the lower half of one of the double-deckers. The men on either side of me had been here before.

"This your first fall, ain't it?" asked one, whose name I learned was Freddie. I nodded that it was. "Well, you're lucky in one way, that you ain't no young punk. Maybe you won't have to worry so much about gettin' corn-holed."

His words stunned me, and I lay there on the bunk unable to speak. Corn-holed! I had, of course, read of such things happening in prison. I had discussed it a little in jail with one of the trusties there. So. Here it was. I prayed to God that I would not be subjected to such an outrage, that I would never have to witness it. I knew my own nature and that I could not submit to such a thing, no matter what the consequences might be. I feared and dreaded violence, but I knew, too, how far I could be pushed. Later, in the pale glow of the dim light that burned perpetually at the top of the cage, I looked around at the restless forms surrounding me. My God, I thought, they all seem so young.

A few days later I sat in a straight-backed chair in one of the interviewing offices and stared across a desk at a pleasant-faced young man, a staff member. "How in hell do we rehabilitate you?" he asked, half to himself. I did not attempt to offer a suggestion. "We don't see many college graduates in here. And, of course, we know your history, that you aren't a criminal or habitually inclined toward trouble. It's a damn shame you have to be here, but you do, so you might as well face it. Adjusting to Parchman isn't going to be easy; we are aware of what you are going through right now."

This statement surprised me; I had thought I was to be treated simply as another number. But still I remained silent, waiting for him to go on.

"I'd like to see you use your knowledge of farming while you're here, but I understand the superintendent has other ideas, and he's the boss. My father is the animal husbandman on this plantation. I sure would like to see you go to work for him. I think you and he would get along fine."

"Why do you think so?" I asked. "I don't know anything about livestock. I'm a cotton farmer."

"I realize that, but it wouldn't take you long to catch on. Mainly though, I was thinking it would be nice if you could work with a man who doesn't find it necessary to use four-letter words every other breath. He's a rare individual in this place. And my old man never cusses."

I had to smile at this. "You know, mine doesn't either," I said. "But if cussing is all I have to put up with, I'll survive."

"Sure you will." The counselor stood up and held out his hand. "You're gonna make it okay. I'll keep in touch."

I had had the complete course; tests in educational development, aptitude, psychological tests, an I.Q. test, were all shoved at me. It took days, for there were days in between tests when I did nothing but sit in the cage and worry. The reality of things began to gnaw at my insides, and for the first time in my life I realized the feeling of a cold, hard knot in the pit of my stomach. I dreaded the loss of my wife and child, yet could no longer avoid facing the truth that

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I had lost them. I was afraid, deathly afraid, of what was to come next in this prison. I worried about time, nine years of it, exactly like the present, filled with nothingness. And as I worried, I created a new terror: that I would not be able to absorb what was to come, and would eventually, little by little, crumble into pieces.

I tried to control this reaction, but anxiety and fear and hopelessness kept creeping into my brain. No matter how hard I tried to occupy myself in reading, in conversation and in the always available TV, I would find myself slipping back into a dreamlike world of total and absolute misery.

"Say, John, you sure do write fast. I watched you write that letter last night, and it didn't take you no time a'tall to fill up the whole page." The speaker was my aisle partner, although there was no aisle between us. He slept on the opposite side of me from the one Freddie slept on.

"Thanks, but I've had plenty of experience writing letters over the years," I said to him.

"I was jes' wonderin', would you min' puttin' the ad-dress on mine for me?" said the convict.

"I'll be glad to, but you can do it yourself; I saw you writing a letter too."

"Aw hell, I know, but I can't write pretty like you, and I'd be ashamed for the sergeant to see my han' writin' on a envelope. Mainly though, I jes' hate for the other guys to see it. Look, my han' writin' looks like a little kid's." It did, too, and it was easy to see how much trouble he had had getting his letter done. His hands had rarely held a pencil. He told me the last letter he had written was ten years ago, from Parchman. "I even learned what little bit I do know about readin' and writin' here in the penitentiary. My aisle partner at Camp Five learnt me."

I took his envelope and began to address it in the approved fashion, with the inmate's name, number and camp in the upper left-hand corner. "What's your full name?" I asked.

"Red Morrison. I mean, J. T. Morrison," he told me.

When I had finished addressing the envelope I asked him, out of curiosity and by way of conversation, what he had done in the free world. "I was a tractor driver, heavy equipment operator, stuff like that," he said. "But I got busted for bein' a small-time thief, an' for bein' stupid. I found out how much these farm chemicals was worth, and I just couldn't resist makin' off with a few dozen cans from a warehouse one night. They would have let me off even then, but later I got caught with some tools in the trunk of my car that they said was good for burgalizin' places. So here I am, again, and I could kick my own ass! I shore got better things to do with my time than set here another three years. I got four little bitty kids."

Red told me later that this was to be his last time in prison, that he had made up his mind to that. He was right; it was his last time.

Two years later Red became eligible for parole and was turned down at his hearing, "set off" a year because of his prior conviction (and lack of influence). Less than a month after that a trusty guard dashed into the hall at Red's camp one night, pointed a pistol at his stomach, and shot him dead. Red Morrison was the night "hall shooter," a trusty himself by then, and no one ever learned why he died, for he was surprised by his assailant and made no move to interfere with him. The killer was "running," making an escape, and we convicts surmised that Red simply happened to get in the way. His wife came and brought his oldest boy to claim the body, and his death was mentioned in the *Tupelo Journal,* once. The trusty who killed him got an extra year for manslaughter when they caught him, but I think he beat the charge later on.

As the days passed, the men I came to the reception center with began to disappear. Old Frank Rodgers was transferred to Camp Four, a unit for the old, crippled, permanently ill white inmates. Freddie Wilkins and Red Morrison were sent to their old camp, Five. Each time a prisoner left I wondered what would happen to me when it came my turn to go.

One night a prisoner named Wall came and sat beside me on my bed. "Say, John,

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you might ought to ask that sergeant to let you outta here for a little while. I been watchin' you for two or three days now, and you're goin' downhill fast, whether you know it or not. You ain't said nothin' to anybody since day before yesterday."

I thought for a moment, and realized the man was right; I had been in a nightmare world of my own, consisting of endless years of sitting in a cage. There was no relief, no future, and no hope. Gradually, I seemed to step outside myself, and my mind separated itself from my body. I am coming unglued, I thought. I don't want to fall apart, but in spite of myself, I am doing just that. There is no way I can make it in this place. No way at all.

"Wall," I said, "I'm scared to ask that man for anything. I don't even want him to know I'm here."

"Well, you can jes' bet your ass he knows, so don't worry about that. How long since you had any sleep, anyway? Every time I look over toward your bunk at night, I see a cigarette glowin' in the dark."

"Too long, I suppose. I don't know how long it's been. I just want them to leave me alone."

For five months I had held up. I had withstood the blows one by one as they fell; I had been staggered time and again. But I had managed to keep my head, under pressure, and although at times I saw no end to it, I never lost control. The night it all began should have been enough to drive me out of my mind, but it did not, not even when I came back to reality in the jail cell and realized that I had shot and probably killed someone. Nor did it when he died and my world fell to pieces. The months in the mental ward, wondering if I were really crazy, the pressure of waiting, isolated from others, for trial, should have been too much to bear, yet I bore it all. I do not know how, for each day I was surprised that I had survived another one and had, for a while longer, kept my sanity.

Now, here in this filthy, ancient cage, I felt myself slipping inch by inch, day by day. I saw only one thing, a fantasy of nine interminable years of endless, unrelieved hell. And so at last, I was going under.

Wall kept at me and finally persuaded me that even if it did no good, I should go to the window and ask to speak to the sergeant. It was not hard to do, physically, for the man sat at a desk in the hall and was within earshot all the time. I gathered up what courage I could and asked to be let out just for a few minutes.

The sergeant looked up. "What the hell for?" he demanded.

"My nerves, sergeant. I just don't see how I can take it any more in here without flying all to pieces."

"Say, ain't you MacDonald?" he asked.

"Yes."

He got himself up from his chair, telling me as he did so to meet him at the cage door, which the hall boy came to unlock. He had been taking it all in.

"Come on out and go out on the front porch for a little while. It'll do you good to get some fresh air. Say, ain't Rafferty your lawyer?"

I said that he was and walked out the front door of the camp, being careful to stay well within the gun line on the porch. So that was it, I thought. Now I see what Jack meant when he said having the lieutenant governor for an attorney would be a help. This guy thinks I'm some kind of political force. My God!

The sergeant went a step further than letting me out for some air; he even took me to the hospital for some tranquilizers which I got from my friend, Luther Jones, the Negro convict doctor.

This incident gave me an insight into the hold that politics had on the penitentiary. I did not know it at the time, but virtually every employee here owed his job to some form of political influence. Most of the officials in the low echelon bracket did not have much pull; their jobs were not sought after as a rule, but they were the best these people could get. Their positions were insecure, their pay was miserably low. And as a result, their qualifications were nil. Almost to a man, they had come here only when there was no place else to go, for they had failed at everything they had ever tried.

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I got the pills on a Saturday, and that night I had a good sleep for the first time in days. The next morning we went to the church service and joined the Negro prisoners to sing, "Amazing Grace, how sweet the sound, that saved a wretch like me . . ."

"Look out on that feller from Clarksdale! Yeah, you. Th'ow your stuff in this here box. An' git ready to go." The hall boy issued a minimum of instructions, but there was no mistaking his meaning; I was moving to a camp at last.

There were two of us, and we were told to get in the back of the sergeant's pickup truck with our cardboard boxes of belongings. "Where you reckon we're goin'?" asked my companion.

"God, I don't know, and I don't really care, just so we go somewhere away from that goddam reception center," I said. "I have had just about enough of that place."

We pulled into a neat-looking, white-painted camp with a chain link fence surrounding it. "Okay, Scott. This here's your new home. Git out," said the sergeant as he swung down from the driver's seat.

"Me too, Sarge?" I asked.

"Naw, this here's Camp Six. You go to Seven."

Seven! I had heard of it. The prison nut house. Oh God, I thought, will this nightmare never end?

Camp Seven is also known as the M.S.P. Adjustment Center. It was created in an effort to stave off complete mental and emotional breakdowns among convicts who were unable to accept prison environment. Before its inception mentally ill inmates were simply branded as troublemakers, and treated accordingly. If they failed to respond to a period of confinement in the maximum security unit, accompanied by appropriate treatment, including beatings, purging with water hoses, milk of magnesia forced down their throats, cold water dousings and starvation, they were eventually either transferred to the state hospital for the insane or they died. Camp Seven was supposed to cut down on some of this.

The day I arrived at Seven it was freezing, and I wore a canvas billed cap of the type that ties under the chin. I walked into the hall with the old sergeant, stared at the new one, and heard his words of greeting. "Take off that goddam cap when you come in the hall!"

I grabbed at it; the chin strap was still tied. Attempting to untie the string, I only got it hopelessly snarled into a hard knot.

"Good God," said my new warden. "Git on in the cage."

The hall boy swung the wooden door wide, and as I stepped in, I heard him close it and snap the lock. I never got used to that sound.

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Riot in the Penitentiary

JAMES BLAKE

In recent months I've been reading about the prisoners' insurrections in the Tombs and other New York City prisons, and about the series of convict rebellions at Raiford State Penitentiary in Florida.

The latter reminded me of the disturbance that occurred there when I was a resident postgraduate student at that subtropic School for Scoundrels. Compared to the more recent happenings, that hassle was a family argument.

It wasn't easy to start a riot at Raiford then. The warden was an astute politician of the Southern school, known on campus as The Fox.

With reason. Beneath the courtly, silver-haired, father-figure facade was a Machiavellian virtuoso who knew precisely how to keep his charges off balance. If signs of trouble appeared, there was an extra movie for the boys, or boxing bouts, or night baseball games under an astronomically costly installation of lights.

The convicts admired him, grudgingly, for his deft and devious style, although they invariably came to calamity because of it.

The Fox eventually retired full of honors, however, and in his place the powers installed—of all unlikely choices—a law officer, the former sheriff of a rural Florida county.

The prison had always "run loose," but with the new regime it began to tighten up rapidly. Nobody liked that.

The first sign of opposition came from 8-Spot, the hard-labor squad. They claimed there were maggots in the beans.

8-Spot was a repository for all the rebellious hardnoses and agitators, and they worked outside the prison compound, usually digging in a swamp, under guards armed with shotguns. Their noonday meal was carried to them by truck, and it was always, unfailingly, beans.

The new warden made a magisterial appearance on the 8-Spot job location at lunchtime, inspected the beans and pronounced them free of foreign bodies. History does not record whether or not he ate any beans. Logic is against it.

The complaints continued to mount and to grow in ferocity. The day came when the 8-Spot crew stuck it up, sat down on the job *en masse,* refused to work, and were summarily returned to the penitentiary and their cells.

That evening the joint buzzed with sedition. Cooler heads counseled restraint. These were the eminences of the jailhouse —bookmakers, moneylenders, influence peddlers, who knew that clashing with the authorities led to severe repression, which was bad for business.

The tumult and shouting temporarily subsided, and the word was passed that 8-Spot would not respond at Squad Call in the morning.

There was an intangible factor to be reckoned with in all this—the warden was a "new-cock," a recent arrival, and there was general speculation that the hardnoses were "trying" him, testing his determination and fortitude. It seems safe to say that the warden was aware of this angle.

At Squad Call, each workday morning, all inmates were required to assemble on the recreation field. From there, each squad lined up when called on the P.A. system,

✪ JAMES BLAKE's book, *The Joint,* a collection of his letters from prison, was published this year.

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passed through the East Gate into a long narrow courtyard leading to the West Gate, through that into the outer compound of the prison, and from there to their job locations.

On the fateful morning, before the boilerhouse whistle blew, there was much milling around on the ball field, persuasion and threats. In a prison rebellion, it is useful if the action is as unanimous as possible.

In Raiford, cynically corrupt and venal joint, most career convicts were accustomed to getting what they wanted through assorted flimflam. A physical challenge like a riot seemed a little—well, much. The hustlers and heads in the prison population were bored and annoyed with 8-Spot for interrupting the soothing tedium of routine—"Man, this kinda jive only stops your time."

Only, the 8-Spot ruffian who had seized the initiative was a Spartacus of a different variety. A rugged, brawling Polack from Gary, Indiana—a "Yankee"—he and some of his henchmen broke into the baseball dugout lockers and acquired baseball bats. They took up strategic positions near East Gate, announcing that they would clobber anyone who answered Squad Call.

Squad Call came, the loudspeakers summoned, and nobody moved—except to edge gradually away from the nucleus of embattled rebels. Guards who normally circulated in the crowd had emerged, looked at the bats, and withdrawn. The calm was ominous.

In this uneasy protracted lull, the temper of the mob went from apprehension to giddiness to boldness to hysteria to mania, and erupted. The prison canteen had a sales window facing on the field, protected only by a wooden shutter. Abruptly the shutter was gone, the narrow aperture framed the wriggling backsides of eager pillagers—and the opening became a cornucopia spilling riches, largesse, spoils for the victors: candy bars, cartons of cigarettes, an avalanche of canned goods and coffee, toilet articles, cookies, doughnuts. The entire stock, with cash register.

The huge field exploded in carnival, bacchanal. Running convicts with pockets bulging and hands loaded, gulping chocolate bars, frantically smoking Pall Malls and other store-bought cigarettes. Smashing the necks of Coke bottles in joyous drunken abandon, shouting obscene defiance, their eyes glazed, their manner crazed.

On the prison roof, two men from I.D. Office, one with binoculars, the other writing, spotting the prison numbers stamped on the pants and shirts of the convicts.

The loudspeakers came to life, the voice of Chief Custodial Officer: Those inmates who wished to return to their cells could do so, in single file through East Gate.

From the guard towers flanking the field, riot guns extended. And on face after dazed face, there was crisis, dilemma—what to do, what to *do,* with the loot? The grass was strewn with merchandise of all descriptions as, like cows drifting for the barn at evening, the celebrants made their disconsolate way to the line forming at East Gate.

Of the marooned handful of holdouts who stayed behind, it was claimed that they made a dash for the prison kitchen, seeking lethal weapons. The phalanx of guards at the West Gate, with rifles and shotguns, let go a massive barrage. Seven wounded, one dead.

The dead man: Serving a year for nonsupport. The convicts said, "Jeez, what a jerk!"

The guard lieutenant who allegedly gave the order to fire: Rose rapidly to become head of the Florida Division of Corrections in Tallahassee.

The warden's wife: Speaking to a reporter in her Victorian mansion on the Raiford plantation said, in defense of her mate, "*My* husband doesn't know what goes on in that place, and doesn't *want* to know!"

The prison chow got better. Not a *lot* better. But better.

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PRISONERS SPEAK

The Rehabilitation Myth

ALBERT F. NUSSBAUM

Like many words associated with prison and prisoners, law and justice, the term *rehabilitation* is ambiguous, its exact meaning unclear. Rehabilitation implies the *re*-establishment of a former state; for most men in prison, however, there is no prior period in their lives that would be considered acceptable. But even if you give rehabilitation a minimal definition, let it mean simply the attainment of some basic kind of social acceptability, and make it apply to all prisoners, it is a phenomenon as rare as a clear conscience.

Almost from the time prisons were established to replace corporal punishment, it was said that men were confined *as* punishment, not *for* punishment. Their imprisonment was supposed to serve a good purpose —rehabilitation. This is a very worthwhile goal, but "the only way to say it is to do it," and good intentions aren't enough. Penology is not a science like medicine or mathematics. It has no stock remedies, no way of checking the accuracy of a solution, or, in fact, of being certain a given procedure will lead to a solution.

So, how does prison remove or reduce the inclination to murder, rob or rape? The answer is, it doesn't. If it has any effect, I believe it is the opposite one. The administrators of many prisons operate like blind men sorting marbles in the dark—they don't know what they are doing, and no one else knows, either. Chaos cannot produce rehabilitation.

When a man enters prison, he is invariably faced with a multiplicity of petty rules and regulations, many of which are clearly arbitrary and capricious—the result of some autocratic individual's need to exercise authority—and not necessary to promote smooth, harmonious and reasonable living within the prison or to prevent escapes. For instance, in 1964, when I arrived at Leavenworth, a prisoner was allowed to walk on the white tiles along the edge of the main corridor, but not on the red, center tiles; and the possession of coffee could result in a period of solitary confinement and a loss of "good time."

Those particular situations no longer exist, but once a rule has been made, authority is reluctant to change it. At that same time, a guard was always assigned to accompany motion picture film within the institution. This must have been an ancient regulation because it has been at least twenty or thirty years since film has been highly inflammable or explosive.

Two of the greatest threats to mental health have been identified as (1) excessive conflict, with feelings of helplessness, tension and anxiety, and (2) isolation from one's fellows, with feelings of loneliness and rejection. Both these conditions are common in many prisons today. Prison normally lacks all that is most valuable to a man—love, loyalty, manly pride. First the man is forced to conform, and soon he finds it easier to let others make his decisions than to make them himself. A man's skills atrophy, and his interests

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✪ Short stories by ALBERT F. NUSSBAUM, a prisoner at the United States Penitentiary, Leavenworth, Kansas, have appeared in the past two annual anthologies of the Mystery Writers of America.

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narrow to one or two undemanding pastimes like watching TV, playing cards, or reading novels. Life loses its wonder. Some men shuffle along as if they were trying to hide holes in their shoes.

At the same time prison life is not without humor. You hear laughter and see smiles, but the humor is not the same as that outside the walls. The fact that a man smiles doesn't mean he's happy or content. A smile is a deceptive, often defensive expression. It can mask anger or fear—or a combination of the two. Prison humor is usually twisted (when a man tells you his young son wants to know if he's a sergeant, you're supposed to smile), and there is far more joking to hurt than there is in the free world.

Prison has a social structure, a pecking order, that is the reverse of the one outside. At the top are the big-time swindlers and bank robbers; at the bottom are the petty thieves and sexual deviates. Car thieves and check passers often pretend to be bank robbers in an effort to gain more acceptance. No one would think of claiming innocence or playing down his crimes except with outsiders. "It's okay to steal a lot if you leave a little" is prison philosophy at its zenith. Is it any wonder that, after spending years in that unhealthy environment, released prisoners often graduate to more serious crimes?

When Ellis MacDougall, commissioner of Connecticut's Department of Corrections and then president of the American Correctional Association, appeared before a subcommittee of the Senate Judiciary Committee a couple of years ago, the following excerpt from his testimony appeared in newspapers across the country: "About the only area where we [penologists] can claim expertise today is in the field of capital punishment. Correctional administrators can tell you exactly how many amps and how many volts for how many seconds, or how many cyanide pills it takes to execute a human being, but they lack the funds, knowledge, tools and facilities to properly treat and rehabilitate inmates."

Why has so little progress been made? Well, the history of imprisonment is a story of struggle, not between convicts and keepers, but between custodial and rehabilitative staffs and between theories of mass and individual treatment. Prisons are the last to receive a piece of the tax dollar and most of what they do receive is earmarked for custodial purposes that will maintain the status quo. All change is feared because it might possibly result in a weakening of prison security, which has been established at great expense and effort.

Unfortunately, this fear is valid. Small changes have produced huge flaws in security. Because of this, the courts have given administrators broad discretion in the running of their prisons, and seldom interfere. But it is obvious that no one should be placed in a position where he is under the absolute and unsupervised power of another. Even in the unlikely event that there are no abuses of this authority, there is always the fear that there will be.

I believe that most of the evils of confinement are inherent in the prison system and amplified by custodial efforts to resist change. But when custody isn't the only element of prison administration, there is also treatment, that element concerned with the elusive rehabilitation. In the last two decades, accompanied by cries that convicts are being coddled, more promising reforms and experimental programs came into being than in the previous two centuries.

Today all but the most backward prisons have educational programs. Some institutions even have the word "correctional" in their names to distinguish them from the old penal institutions and to emphasize the goal of rehabilitation. There are prison schools where men are instructed without being judged and where a system of authority has been established that does more than demand obedience—that commands respect. The current enlightenment has also made possible halfway houses, which act as buffers between prison and free society; furloughs for prisoners; and work and study release, which allows some men to commute to free world jobs or to schools during the day and return to prison at night.

Sound good? Of course, it does. But be-

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cause it is built upon the foundation of the traditional prison system, the possible benefits are minimized, if not completely nullified. That machinery often becomes an end in itself is all too apparent in many prisons. Prisons are small cities whose jobs, for both convicts and administrators, are filled primarily on the basis of the needs of the prison, not the needs of the prisoner. Education plays a secondary role. And the time spent on work or study release, or in a halfway house, is intentionally kept short, even though the habit patterns of a lifetime aren't overcome in a few weeks or months. Today's humanistic goals and yesterday's custodial requirements simply are not compatible.

Amazingly enough, on rare occasions a man does gain some awareness of his motivations and of the place he should fill in society. Once in a while a man does change for the better, but the change is seldom discovered. If you want to know what kind of person a man is, you have to let him show you. In a world where conformity is enforced and individuality is suppressed, rehabilitation is all but undetectable.

But then rehabilitation is so uncommon that most officials stop looking for it soon after beginning a career in penology. Paradoxically, this appears to be true of parole officials, too. A successful parole system would parole large numbers with a low percentage of violators. Such a system does not exist anywhere that I've heard of in this country.

In *The Joint,* his collection of letters from prison, James Blake wrote: "The rebels in the joint, those who have made some kind of emotional commitment, however hopeless or wrongheaded, rarely receive parole consideration. And in my view, some of these are far more worth recovering [than the conformists]." And in my view, too. Most of them are not, in fact, rebels at all, since evasion of authority or anything else is implicit acceptance of it. I've seen far more of the docile, near-catatonic men return quickly after being released than the so-called "rebels."

Those who make an effort aren't always given recognition through reduced sentences or parole, either. In my case, I was considered for parole after being confined eight years. Despite an excellent institutional record and some modest achievement, I was turned down and will not be considered again until the end of 1973. If the parole authorities actually believed rehabilitation was likely, I think they would look for it after a shorter interval than three years.

I began this piece by stating that most prisoners have never been acceptable to society. The reverse is also true—society has never been acceptable to most prisoners. They have never voted in a state or federal election, never been a member of a fraternal organization, never felt they belonged. And when they leave prison these feelings have been intensified, not reduced. Punishment does not deter or rehabilitate—it shames, embitters and angers. Prison fans the antisocial spark instead of extinguishing it, no matter what "opportunities" the man may have had in prison.

And then society throws gasoline on the fire by inflicting restrictions and economic sanctions upon the ex-convict. The vote he never used may not be returned to him. He may not be allowed to sell real estate professionally, drive a taxi, work in a night club, or take up any of a dozen other occupations. The rationale behind these controls over ex-convicts is obviously fallacious —otherwise doctors would be required to have disease-free histories and teachers would have to prove that they had never made an error. When the Puritans released an offender from the stocks or whipping post, they forgave him. Why can't society today do the same?

It may be that crime is, as some people have said, a symptom of a sick society. Or, it could be a riddle without an answer. I don't know which it is. I do know, however, that men in prison live under conditions, feel emotions, and endure psychological pressures that no one who has not experienced them can imagine. If a man changes and decides to accept the social contract, it is most likely simply the result of maturation, achieved in spite of, not because of, his imprisonment.

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British Crime Prevention

HERBERT R. HORWITZ

As Associate Director of the Training Division of the Washington, D.C., Metropolitan Police, CAPTAIN HERBERT R. HORWITZ, *along with other members of the police force, is attempting to revise and improve the curriculum at the Police Academy. Awarded the 1970 Winston Churchill Traveling Fellowship by the Washington Branch of the English-Speaking Union, he spent three months in Britain studying British police methods and court procedures. The following article is a compilation of findings and recommendations from Captain Horwitz' report, supplemented by an interview with* CAROL BRANN *of the* SCHOLAR *staff.*

THE SCHOLAR INTERVIEWER: Captain Horwitz, in the first section of your report you describe the gentle, orderly nature of the English people. How much does that have to do with the effectiveness of the British police?

CAPTAIN HORWITZ: In his book, *The English People,* George Orwell made some observations that help explain why and how the English system of law enforcement and courts works as well as it does. Orwell wrote:

> Our imaginary foreign observer would certainly be struck by our gentleness: by the orderly behavior of English crowds, the lack of pushing and quarrelling, the willingness to form queues, the good temper of harassed, overworked people like bus conductors. The manners of the English working class are not always graceful, but they are extremely considerate. Great care is taken in showing a stranger the way, blind people can travel across London with the certainty that they will be helped on and off every bus and across every street. In wartime a few of the policemen carried revolvers, but England has nothing corresponding to the "gendarmerie," the semi-military police living in barracks and armed with rifles (sometimes even with tanks and aeroplanes) who are the guardians of society all the way from Calais to Tokyo. And except for certain well-defined areas in half a dozen big towns there is very little crime or violence. The average of honesty is lower in the big towns than in the country, but even in London the newsvendor can safely leave his pile of pennies on the pavement while he goes for a drink.
>
> The general English hatred of bullying and terrorism means that any kind of violent criminal gets very little sympathy. Gangsterism of American lines could not flourish in England, and it is significant that the American gangsters have never tried to transfer their activities to this country. At need, the whole nation would combine against people who kidnap babies and fire machine-guns in the street: but even the efficiency of the English Police force really depends on the fact that the police have public opinion behind them.

These things that Orwell described as characteristic of the English people are precisely the things that I found. Now when you leave England and go into Wales, Scotland or Ireland, you don't find exactly the same things. It differs in degree—for instance, the Irish police carry weapons. But the English police do not, and I never met any policeman over there who said he'd like to be able to carry a weapon. A British policeman visiting here recently told me that if he were required to carry weapons he would leave the force. He said that in twenty-two years as a detective he has never

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had to use handcuffs, and never had to strike anyone. To me, that is remarkable. . . . As he put it, where would criminals go if they did escape? It's just a little island. . . . I did observe one case there where a policeman had been assaulted, and everyone in the court was incensed. The first thing the magistrate said was, "You're not going to come into our city and assault our policemen." It turned out that the young man was from Wales; he'd come over to Bristol to do a little drinking.

THE SCHOLAR: It seems incredible to anyone in America that the British police can maintain law and order in a country of forty-eight million people without carrying firearms.

CAPTAIN HORWITZ: The English police do not need firearms because they minister to English people. The people of England do not want their police to be armed and the police themselves do not wish to be armed. It is probably true to state that the criminal, who is also an Englishman, does not usually resort to the use of firearms when committing his crimes because he does not wish to do anything that might cause the arming of the police. . . . Keep in mind, however, that the English people weren't always as gentle and orderly as they are now. They didn't conquer most of the world by being gentle and orderly people; they were swashbuckling, too. What's happened is that there's been a more or less conscious attempt among them to civilize themselves. I think this has been done by a series of intelligent and responsible people —leaders in city and national government, and in the courts—being at the right place at the right time.

THE SCHOLAR: How close is the possibility that at some point the English police may have to carry weapons?

CAPTAIN HORWITZ: Very remote. There are, as I've said, certain aspects of the British character that make it unnecessary for policemen to carry weapons. As long as these aspects remain constant, there won't be any need for firearms. But parts of England are not English. You can go into industrial cities where large parts of the population are immigrants—people who have not been absorbed into the culture. England has a fantastic capacity to absorb people—but lately there are immigrants who aren't being absorbed into the culture. They're still speaking their own languages and staying to themselves. This is where England is having difficulties.

THE SCHOLAR: Well, is it a matter of time for them to be absorbed, or is it that society is now so structured that it's less possible for such absorption to take place?

CAPTAIN HORWITZ: I think that's one of the biggest questions in England at this time. No one really knows the answer to that one.

THE SCHOLAR: So there are certain areas where police may have to carry weapons?

CAPTAIN HORWITZ: That is still highly unlikely. Now there are certain jobs that would necessitate carrying arms—for instance, if you have someone in a house shooting at people—and there are policemen who are trained as sharpshooters, but even they don't carry guns as a matter of course; they are issued the guns on special assignments.

THE SCHOLAR: Your report includes statistics showing that England is experiencing some increase in crime.

CAPTAIN HORWITZ: In the metropolis of London, arrests for indictable offenses rose from 61,184 in 1968 to a new high of 75,128 in 1969. The growing tendency toward violence is reflected in the rise of 28.7 percent in woundings and assaults. . . . Anyone who has studied Hogarth's drawings or read Dickens' novels can attest to the fact that crimes of violence were at one time quite common in England. Orwell says that the most typical English crime of the eighteenth century was "kicking your wife to death."

But the English have consciously evolved a morality, a state of mind, if you will, that does not allow for a violent settlement of disagreements.

Perhaps England is changing . . . but it should be kept in mind that all of the offenses incorporating violence against the person committed in England and Wales for an entire year equal only a normal six months' total in any one of a dozen large American cities.

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THE SCHOLAR: I work in offices just off Dupont Circle in Washington. And every day, it seems, several police cars zoom down Q Street in pursuit of someone. Would I hear that many sirens if I worked in a comparable area in London?

CAPTAIN HORWITZ: Definitely not. And if there were a robbery anywhere in the area, there would be a major article about it in the newspapers, not just a small item. Also, it's still perfectly safe, even at night, in London to send your children out for a newspaper.

THE SCHOLAR: How do the police and other people in England feel about the abolition of capital punishment?

CAPTAIN HORWITZ: Had it been given to a public referendum, I'm sure the English people would have voted to retain capital punishment. The way things stand in England now, a man can get no more than a life sentence, and policemen feel that this is a threat to their safety. They believe that one of the things that kept people less violent was the threat that if they did kill a policeman or a citizen in the process of committing their crime, they would die for it.

I don't think that the threat of capital punishment would keep anyone from killing anyone else in a fit of anger—I think they'd go ahead and do it, depending on the availability of a weapon. But I do think capital punishment would tend to prevent the crime in which someone commits a robbery and then shoots his victim.

THE SCHOLAR: How strict are the gun laws in England?

CAPTAIN HORWITZ: Well, almost everyone in the countryside has guns for shooting birds, and the controls on them are about the same as they are here. But as for handguns—they just haven't been an issue. The English people just have not used handguns. After all, they didn't conquer the Wild West with them the way we did.

THE SCHOLAR: You state that *in effect* the British have a national police force and that you believe this has a positive effect on morale and the police-public relationship. Could you describe this national character of the police?

CAPTAIN HORWITZ: It was stressed to me many times during my stay in England that there is no national police force in Great Britain. I was told that local police authorities administer their own police forces, subject to central financial and legal checks.

As a visitor, however, from a country that has forty thousand *really* independent police authorities, it certainly appeared to me that England and Wales have a national police force.

To start with, police officers have the power of arrest throughout England and Wales, regardless of their force affiliation. There is an interchange of officials, and to some extent constables, among all of the constabularies. The control exerted by the Home Office through the Inspectorate of Constabulary and its power to recommend the withholding of Exchequer grants is tremendous. In addition, the Criminal Investigation Department has already become national through the regional crime squads and the assistance rendered by New Scotland Yard on sticky cases occurring in the smaller jurisdictions.

The police training in England and Wales also gives proof of the national character of the police. There are ten recruit district training centers, which are the joint responsibility of the Home Office and the police authorities who share the costs on a per capita basis according to the establishment of the force, that is, a common service.

Most important, there is a feeling of solidarity among the police that does not exist in the United States. It is apparent at the many unofficial private affairs that they attend, such as the I.P.A. Caravan Rally at Hooks Hill in Devon, at which I was a guest and where I met police officers from all over England and Wales.

It was also officially evident in a case I observed in Bristol: a truck loaded with aluminum ingots was spotted in Wales, headed for England. The registration was checked out by radio, and the truck was suspected of having stolen metal aboard. Two Criminal Investigation Department officers from Wales followed it to its destination in Bristol, where they informed the Bristol Constabulary by radio from their

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unmarked vehicle about what they had seen. The arrest was made by a combined team of Welsh and English police.

This sort of thing is becoming more common as the new motorways make any part of Britain only a few hours from any other section.

THE SCHOLAR: You state that you watched quite a few arrests begun in one jurisdiction and completed in another, with many different forces cooperating. Do you think such cooperation is possible here?

CAPTAIN HORWITZ: I would doubt it. Our country is too big, and there are too many widely differing laws.

THE SCHOLAR: In the introduction to your report you make it clear that in establishment and method the English police and the American police are quite similar, and that you probably could function as a policeman there with minimum adjustment. Still, you did find certain British practices different from ours, and you describe several that you would recommend for American law enforcement agencies.

CAPTAIN HORWITZ: If I were to choose one important thing to recommend to American police forces, it would be the establishment of a Police College. While college training does not make a competent officer of one intellectually or morally deficient, when all other things are equal, the college-trained man is better qualified for the higher positions in the department than one who has not benefited from this training. He has had broader experience with people, and he has had the opportunity to meet officers of different cultural backgrounds in a resident atmosphere. His studies will have given him a new perspective on the problems common to the higher echelons of command. Such men will have a great deal to contribute to the eventual professionalization of the police service.

. . . It is time that the American Police Service established its own institution of learning, where policemen may determine and delineate the principles of their profession, and where the established facts, principles and methods may be studied and tested.

Perhaps the most significant innovation in police operating techniques that would have immediate relevance in the United States is the regional crime squad.

In 1963, a Research and Planning Branch, composed of senior police officers and scientists, was formed at the Home Office to inquire into the growing problem of serious and unsolved crimes. Since it was the opinion of many experienced detectives that a substantial part of the more serious crimes is committed by criminals who travel long distances to commit their crimes, certain constabularies (Lancashire and Birmingham) had already set up small bodies of very experienced officers who concentrated entirely upon traveling criminals. The Home Secretary, therefore, announced a two-year experimental program of similar squads to operate all over England and Wales.

. . . It is considered important that members of the regional crime squad should be kept free from routine case loads, and, where possible, arrangements are made for officers from local forces to be responsible for the actual arrest so that crime squad officers do not become involved with excessive paper work.

An important reason for the effectiveness of the regional crime squads lies in the fact that they have time to spend making observations, interrogating prisoners, and checking those small pieces of information that the local officer often cannot follow up because of his other commitments.

After an initial period of orientation, the squads are now concentrating to an even greater degree on the criminals in their own areas rather than on the crime, and they are matching the rapidity and ingenuity of the mobile criminal. Unrestricted by force boundaries, the squads have shown versatility and imagination, particularly in the technique of watching and following active and clever criminals.

THE SCHOLAR: Could you describe how these squads "concentrate on criminals rather than crime"?

CAPTAIN HORWITZ: In England, when a criminal is released from prison his record is given to the regional crime squads. They know that he is free, and that he is a profes-

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sional criminal. Say this man is a "safe man," and all of a sudden there are a series of safe crimes. The police can determine—by methodology, usually—whether he's involved. They can operate nationwide; they determine the type of person who's committing a certain crime, and when they see a pattern emerge, they concentrate on this pattern.

Here, suppose a man is let out of jail in Baltimore; a series of crimes with his trademark may take place in Washington and in Philadelphia. But we in Washington have no way of knowing that this man is out of jail in Baltimore, no way of determining that he is going back and forth from Baltimore to Washington and from Baltimore to Philadelphia.

THE SCHOLAR: Is the regional crime squad being tried anywhere in this country?

CAPTAIN HORWITZ: No—you can't cross jurisdictional lines without a warrant. It is done within cities. But a major problem is the big criminal who operates interstate. Hijacking, for example. We do have a kind of informal association with other police departments. But what I advocate would be the kind of unit that would operate on Crime Index offenses throughout the country.

THE SCHOLAR: You describe the unit beat system as a kind of natural development from the village policeman. Will he be reinstated?

CAPTAIN HORWITZ: Yes, but in the cities, not in the villages. The village bobby lived right with the people, worked his own hours, was responsible for one or two villages. And nothing ever happened. So now they say, "Well, we can't use him there anymore because nothing's ever happening." But how can you measure the absence of something? Who can say what might have happened in that village if that bobby had not been there? But they say they can't afford him, so they've taken him away, or at least have begun to phase him out.

THE SCHOLAR: Could you summarize the section of your report on unit beat policing and describe how you think it could be used in America?

CAPTAIN HORWITZ: The unit beat system was developed by the Research and Development Branch of the British Police Service and is now operating experimentally in most areas of England and Wales.

Although I found a good deal of controversy regarding the unit beat policing system among all ranks of the English police, I think certain aspects of it can be incorporated into most American police departments with great benefit.

The London Metropolitan Police utilize the unit beat system as follows:

Each concerned area has a district substation (in London there are one hundred and eighty-five such stations). The substation area is divided into beats. On each beat, in a police accommodation, lives a police constable. With the approval of his sergeant, he determines how and when he will perform his duties. This officer, called the resident constable, has a personal two-way radio to the district substation.

Covering each two resident beats is a Panda Car, which is a small one-man police vehicle. These cars patrol at all times and also are equipped with personal two-way radios to the district substation. Finally, to answer emergency calls, a two-man vehicle with a two-way radio tied onto the New Scotland Yard frequency is assigned to the substation area.

It is believed that the police constable living on the beat will be privy to what is happening in his area. The important information that he obtains is forwarded to his district substation. The reports from the several contributing police constables are collected daily and passed on to the district station, where an officer called the collator gathers and analyzes them. A daily information sheet is issued each day by the collator from the information gathered the previous twenty-four hours and is generally distributed. In addition, the collator maintains an information bank of all submitted data, cross-indexed by name, address, classification and date. This information has proved to be a great help to the Criminal Investigation Department in particular and most other officers generally.

I believe this system could be adapted here in Washington in this manner:

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Within each of the present six districts of the Metropolitan Police Department ten beats would be delineated. Each of these would be the responsibility of one resident police officer, who would be of the same ethnic background as the majority of the residents of the beat area. This resident officer would live on his beat, preferably in a city-owned or police-owned residence (as in England), work his choice of an eight-hour tour of duty (with his sergeant's approval), become acquainted with and known by his neighbors and be trusted by them. He would forward information relative to criminal and other important activities to a district collator. This would be done, initially, by ten men for each district, or sixty men. These resident officers would have a personal footman radio and, if necessary, a car allowance.

A sergeant, also meeting the requirements of ethnic compatibility, would live somewhere in the beat area and would be responsible for his ten men.

The normal manpower allocation would continue, and if the resident officer did not or could not establish good relations with the neighborhood or produce information on criminal activities, he would be replaced.

The post of collator would be assigned to one man for each district, and he would have the responsibility of gathering and analyzing the information forwarded to him. He would prepare and distribute a daily intelligence sheet drawn from the information given him by the resident officers for the previous twenty-four hours. In addition, the collator would maintain a file of all data submitted.

It should be stressed that the effectiveness of this plan would depend upon the competence of the men chosen as resident police officers, the type of supervision given them, and the backing provided by the city authorities and the police administration.

THE SCHOLAR: It is a frequent complaint among American policemen that too much of their time has to be spent in court. Is this true in England?

CAPTAIN HORWITZ: No, because a great deal of the crime there is handled at a lower level—at the magistrate's level.

The keystone to the British judicial system is the magistrate. The office is of ancient origin, dating from about the thirteenth century. Magistrates' courts are, for the most part, presided over by lay justices of the peace, of whom there are about eighteen thousand five hundred. They are all part-time and unpaid. Some magistrates' courts, however, are presided over by stipendiary magistrates, who are full-time salaried judges recruited from practicing barristers and solicitors. There are about fifty of these, most of them in London. The stipendiary magistrates are authorized to perform alone any function that may be exercised by two lay magistrates.

In addition to their criminal jurisdiction, magistrates have powers to deal with juveniles and certain civil matters, mainly of a domestic nature.

Almost all criminal cases that reach the quarter sessions or assizes are committed to them from the magistrates' courts, whose jurisdiction is local, their areas being the counties and most of the larger boroughs.

Because lay magistrates are not necessarily legally qualified, a magistrate's clerk, who is a lawyer, is needed to advise the magistrates on points of law and generally to ensure that the proceedings of the court are regulated according to law.

. . . At present, although the English bemoan the overloading of their courts, due in part to an increase in innocent pleas (which they estimate take ten times as long to hear as guilty pleas), my own observations indicate that on the whole English people plead guilty at a far greater rate than Americans. In no American court would I be able to observe eighteen cases come before a magistrate with twelve pleas of guilty and all be handled within one hour and fifteen minutes.

The truth is that very few Americans plead guilty because there is no reason for them to do so. The English criminal pleads guilty and requests that his case be handled at the magistrate's level because he knows that in most cases the magistrate is limited in his sentencing power to six months or one hundred pounds in each case. He also knows that magistrates seldom sentence any-

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one to jail on a first or second offense. Therefore, rather than take his chances with a jury, an unknown quantity, he pleads guilty, with the odds on his side.

THE SCHOLAR: The magistrates sound much like our justices of the peace.

CAPTAIN HORWITZ: They are similar in many ways—except that there aren't many justices of the peace left here. Also, the magistrates are unpaid, and the position is never a political plum. About half of them are women; most of those who deal with children or juveniles are women. They are people who are respected and active in the life of the community, and who feel responsible for their towns. They are in a position to know, and to feel the pulse of the neighborhood. This is why they're so effective.

THE SCHOLAR: Your report urges that American police forces learn some community relations techniques from the British.

CAPTAIN HORWITZ: The clearest explanation of the British police-public relationship was set forth by (then) Chief Superintendent J. Daniel Devlin, of the Southend-on-Sea Constabulary in his book, *Police Procedure, Administration and Organisation:*

> . . . the police of the country have never been regarded as a body separate from the rest of the citizens. The police are not an "army of occupation" as it were, imposed from the outside, and endowed with wide powers not possessed by the population in general. On the contrary, they are of the people; historically and legally they are indistinguishable from other citizens; and they have few powers not enjoyed by everyone.
>
> This explains why it is so necessary to cultivate and to preserve public trust and goodwill and to maintain cordial relations with the press to whom the public looks for much of its information. It is no exaggeration to say that the police of this country could not function without the confidence and cooperation of the public.

It appears to me that this lesson is one that has already been learned in the United States by most forward-looking police departments. When I joined the police service, cordial relations with the public and press were not an official consideration. No departmental unit existed to assist with the accomplishment of this function. If good relations existed, fine; if not, it was not a real concern. Today, it has to be of utmost importance in the minds of police administrators. In this connection, the question of police ranks as designated in England may have some relevance.

The English police are aware of their countrymen's distaste for the military, in particular the use of officer nomenclature. They also realize that if they are to recruit men who will be satisfied to spend their careers as constables, as are those who become school teachers or ministers, without necessarily feeling unfulfilled if they do not climb the administrative ladder, they must make the initial ranking an attractive, complete and satisfying career in itself.

As a matter of policy, the police in England have avoided most military ratings; only the rank of sergeant remains and the substitution of another title for that rank is imminent.

It is my opinion that most Americans share the Englishman's dislike for military titles and that doing away with them would help to lessen the distinctions between policemen and citizen in the difficult job of improving police-community relations.

THE SCHOLAR: The British seem to have been most successful in giving the policeman a respected position as part of the community, rather than as a force imposed from outside. What are your thoughts on how that attitude comes about?

CAPTAIN HORWITZ: First of all, this attitude toward the English police did not develop overnight. The English police really became an organized force in 1829. Immediately afterward there were riots in which policemen were killed because people resented the fact that uniformed men were placed among them in order to keep the peace. There was one riot in which a policeman was knifed to death and the jury found the man who'd knifed him innocent. But the British always manage to come up with the right person at the right time. Sir Robert Peel's writings initially,

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and the writings of the people who came after him, indicate that what they wanted to do was to make the policeman a member of society, whose responsibilities were just a little greater than those of the rest of society.

The image of the policeman in this country is a little different, because he does carry a weapon, and because most of the time when a citizen does meet a policeman here, it's under adverse conditions. We did have the man who walked a beat, who was friendly with people, and I think we may be getting back to that same sort of thing. But it's difficult to maintain a close relationship with people when you have the high crime rate that we do—and the men are constantly on the go, in vehicles.

The community relations department works to reestablish a sort of personal contact, and once the people realize that the policeman is a part of society, who has additionally heavy responsibilities, I think we won't have this problem. I think it's coming about, too. I think the recent May Day demonstrations indicate that a little. People in the city—those not involved in the demonstrations—were, I think, behind the policemen. Perhaps because for the first time they were able to look at it dispassionately. They were looking at people who were not part of their community, not part of their city, who were in their city for a reason they didn't quite understand and perhaps feared a little—and all of a sudden, there were the policemen. People would come out and congratuate the policemen for what they were doing, which is highly unusual. I think it has happened to me maybe once or twice.

THE SCHOLAR: Do you think there's much hope that people who are outside, or who feel themselves to be outside, as far as society is concerned, can ever come to feel that the law represents protection rather than repression?

CAPTAIN HORWITZ: I think so. That segment of the population that feels threatened by policemen is largely made up of people from a background where policing and police personnel possibly were different from what they are today. I imagine that if one grew up in the Deep South in the time when policemen meant repression—prior to the civil rights movements . . . for instance, if I saw someone walking around with a Nazi uniform on, I'd feel threatened, too. I think that people are going to have to realize that this condition doesn't any longer exist. Police today represent the population of any large city. There's been a deliberate effort to make that happen.

THE SCHOLAR: Is it ever the feeling of policemen that the problems they have to deal with are created by society, and, as such, are too big for them?

CAPTAIN HORWITZ: The policeman always deals with things that he can't change. Say, a husband-wife relationship—they're fighting with each other and he has to deal with it. He has to make sure that the children are protected, and that no one is hurt, and that the neighborhood peace is kept, and at the same time he can't do anything about their problems. He can't help it if someone drinks too much, or spends his paycheck at the track. There's never any instance I can think of where a policeman can deal with a thing before it happens, because we're a reaction force. We can try to anticipate what might happen and send somebody in and try to cool things off a little, try to let people know what our attitude is. But most of what we deal with are society's ills, and we accept that.

THE SCHOLAR: In your report you say that English police officers are encouraged to forego the use of force and achieve their goals through the use of persuasion and tact.

CAPTAIN HORWITZ: That's precisely what we're trying to do here. It's often said that a good policeman will never have to use his weapon because he's able to talk to people. I'm not so sure that's true anymore—it was once. But one of the things we stress is the policeman's image. What does a person see when he sees a policeman? When I'm out driving and there's a traffic tie-up and a state trooper walks up to me, I still get a little troubled because of the very strict image of a state trooper.

What we try to get across to the policeman is the fact that wearing that uniform

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alone will have some effect on people's reaction to him. Sometimes people get a little more belligerent than they meant to just because they're afraid.

Then there's the situation that arises when you stop someone in a car with his family. Under no circumstances should that man lose face in front of his family. No traffic charge is serious enough to warrant making children look down on their father—or to create in them fear of a policeman.

THE SCHOLAR: How about the leeway allowed a policeman to use his individual judgment in dealing with a situation that is fairly minor, but potentially explosive, like a fight in a bar?

CAPTAIN HORWITZ: He has to have freedom to use his individual judgment. When he arrives on a scene, that incident is actually happening. Maybe later on a group of judges will decide that you did the wrong thing, but at that particular time, you have to react on your own. Individual decision-making is one of the main things we try to encourage in the police academy because a policeman is unusual among employees of any government agency in that he works unsupervised ninety percent of the time.

THE SCHOLAR: Does the British policeman have more leeway to arrest or not arrest?

CAPTAIN HORWITZ: As a matter of fact, when an English policeman makes an arrest, the arrest is not complete until the desk sergeant determines whether or not it should be made. The policeman could arrest someone, bring him in and the desk sergeant could say, "Well, I don't think there's proper ground for that, so we're going to release him." Such a thing doesn't exist here. The officer makes the charge, and the officer goes to court.

THE SCHOLAR: In *Scotland Yard,* his study of London's Metropolitan Police, Peter Laurie writes that it is the *presence* of a police force that tends to keep people orderly rather than what the police actually do. Do you agree?

CAPTAIN HORWITZ: Yes, I think that's true. It is the moral presence, the moral example that the police set that keeps the community straight. I think that if you have a corrupt police force, the tendency is for the city itself, the city government and the people in the city, to become cynical and corrupt. But I think that when people have a police department and insist on its being morally straight—and it is—that in turn promotes the well-being of the city government and the citizens. On the whole, people tend to know pretty accurately how honest their police force is.

THE SCHOLAR: Do you have any further suggestions for improving police-community relations in this country?

CAPTAIN HORWITZ: There are real efforts to move beyond the pamphlet stage. I think we have to do that. No matter how many pamphlets we hand out, if the people see something they don't like, that will undo any good that has been done. I think the *actions* of the police department form ninety percent of community relations. But also you must have responsible people in the city—community leaders and people in city government—who, when they recognize a productive change taking place, won't keep singing the same song. You need people who will say, fine, this is what we want—let's support it.

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Social Change and the Police

PATRICK V. MURPHY

There was a time when law enforcement in this country was a relatively simple task. In those days "law and order" ostensibly prevailed. Simple solutions to simple problems seemed to work. Such things as community relations programs scarcely existed, and civil disorders were not problems of the day. Obviously, that day is past. We are more sophisticated today. Our society has matured and our concept of justice seems to have been refined. And today's justice certainly costs a great deal of money.

It was inevitable that new problems would accompany this increased sophistication. And new problems require new responses. The police response, however, to the expanding complexity of society and the increasing knowledge of human behavior soon came to reflect an understandable desire to maintain the status quo. This was what society was believed to want and was exactly what society received.

The appellate courts in the nineteenth century and into the twentieth century generally demonstrated similar attitudes toward the problems of criminal law and procedure. Loud voices of criticism, however, rose to denounce the police service. Police maintenance of the status quo was alleged to be actually a conspiracy to perpetuate the injustices of our imperfect democracy. The police were vociferously branded as "tools of the establishment" by means of which the majority would go on oppressing the minority.

In a fundamental sense, this hostility to police symbolized much deeper problems. Nevertheless, if there was or is any truth in these charges that the police use law to the citizen's disadvantage, that Americans feel powerless against police, and that police are oppressors as opposed to protectors, then police administrators have no recourse but to institute change. To be effective, law enforcement must have the support of the community. Police executives are compelled to seek solutions and take action that will reduce the dissatisfaction. And not only must these administrators utilize their own experience in their quest for these solutions, they must also use the experience of diverse segments of society. The administration of justice, it must be remembered, is the responsibility of the total community, and the police are but one part of the larger whole. To reiterate, what society wants and will pay for is reflected in its police protectors.

Regrettably enough, society doesn't always speak with unanimity. While men are alike in that they share the human situation, each is unique in his approach, due to hereditary and environmental conditioning, and to where and how he lives. These variations in *Sitz im Leben,* basically, are the explanation for much antisocial conduct.

Our society was developed by a variegated mixture of peoples with wide racial, cultural and social disparities. Our forebears were opportunity-seeking, willing-to-take-a-chance individuals. Studying these historical factors along with today's totally new environment, our growing population, our high urbanization and our constantly burgeoning technology, we gain some insight into the societal problems we now face. These problems have reached crisis proportions.

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Great change has taken place in this country during this century—more change than in all our previous history. And yet, more change is necessary and imminent. The manifestations of this change in the areas of science, technology, population and urbanization have already had an enormous impact upon our society. We cannot predict what the future will bring, but with a booming technology and an increasing population will no doubt come intensified urbanization. The result will be further swelling of the ghettos of our central cities. Such impossible crowding of more poor and disadvantaged into already teeming areas cannot but multiply the nation's present critical difficulties.

Most of the crime-breeding depressants of the human spirit—sickness, poverty, idleness, inadequate housing and poor education—are found in the city's ghettos or slums. In these slums we have reached the point of no return.

It seems absolutely incredible that such abhorrent slum conditions could exist in such an affluent and advanced society—yet, in fact, they do. To say that something is wrong would be an understatement. Undoubtedly, there is an improper distribution of affluence in the country. It must be corrected as soon as possible, and our entire national thrust must be directed toward that end.

Evidence of the increasing awareness by ghetto residents of this inequitable distribution of wealth is found in the turbulence experienced in such areas over the last ten years. Civil unrest among the underprivileged and so-called "underachievers" continues to rise. Mass demonstrations, sit-ins and marches indicate that the time for social change is at hand.

The public does not always understand that the amelioration of social and economic injustices is the responsibility of society itself and cannot be abdicated to the police or any other agency. No effective war against crime can be waged without attacks on the problems of poverty, racial discrimination, inadequate housing, unemployment and poor education.

Violent crime is on the increase in every part of the country. And the obvious question is, why this trend toward violence? In the past the thief who stalked the streets and pounced upon the unwary was content just to separate the victim from his valuables. Today's mugger, however, injures, maims or kills his quarry. This compulsion to strike out at the victim himself has been described as the manifestation of a deep inner frustration and resentment within the attacker, who is often a product of the ghetto. Moreover, this hostility symbolizes something much deeper—it is the attacker's blow against society.

A sad but revealing observation is that the majority of the violence occurs inside the ghetto. The resignation with which many ghetto residents confront these grim conditions reflects not only desperation or even despair but, more deeply, the dehumanization imposed upon them by the slum conditions to which they are subjected.

Violence by gunfire has also increased to staggering proportions. This is why I am continually campaigning for stricter weapons control legislation. It has been estimated that firearms claim some twenty thousand lives each year in this country. Those injured and maimed by gunfire run to about two hundred thousand annually. Why? Because guns are dangerous even in the hands of the best-trained and most responsible of citizens.

Statistics reveal that about twenty-five percent of all violent crimes in the country involve the use of firearms. Furthermore, guns are the weapons used in sixty-five percent of all murders. Logic tells us that a decrease in the availability of guns would necessarily achieve a decrease in the number of violent crimes, and experience in the few areas where effective gun control has been enforced confirms this expectation. We cannot be equivocal with the present increase in violent crimes and the increase at an even more rapid rate of crimes involving guns. To control crime in this country, we must control firearms.

We must also strive to prevent crime by attacking its underlying causes. In this respect, we must begin with the young, since

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a substantial proportion of crime is committed by minors. In fact, more than half of those arrested for car thefts, burglaries, larcenies and robbery in this country are under twenty-one years of age.

We know that children who come from slum homes are more apt to become criminals than children from more advantaged milieus. The former live in places where violence is common and where those who are most successful use guns as means of promoting that success.

Narcotics addiction has for many years been concentrated in the ghettos, and even today this plague continues to be most virulent in the inner cities. One reason for this inordinate localization of drug use is that drugs temporarily liberate the user from the wretchedness of his surroundings. In this area there has been a definite progression. In the last decade we have seen more and more experimentation with drugs by the youngsters of the slum sections.

Narcotics, it has been said, are important factors in the genesis of criminal behavior. The person who becomes addicted loses his economic efficiency and is soon driven to the underworld to secure his supply of drugs. One avenue used by addicts to sustain their habits is street crime. The inevitable result is that the addicts become inextricably trapped in the web of organized crime.

Narcotics, gambling, loan-sharking, hijacking, pornography, and "fence" activities are all component parts of organized crime. Tempters to evil, the parasites plying these trades do so in the ghettos among the weak, the deprived and the despairing.

Top-level syndicate operators invest gambling, loan-sharking and "fence" profits in narcotics purchases, and reap even greater profits from individual sales to those "hooked" by this scourge. And organized crime operators are still not content. They are invading legitimate business not only for profits' sake but also to maintain their anonymity.

What can and is being done about organized crime? There is no question but that it is one of the most difficult problems for police because it crosses so many lines. Police departments and federal agencies across the country have in the past operated independently of each other, jealously preserving their own prerogatives, often hampering their overall effectiveness. If we are to make any progress against organized crime, there must be a concerted attack by *all* law enforcement agencies, municipal, state and federal, and in the past few years there have been encouraging signs that multilevel coordination is possible. Information must be exchanged, operations must be coordinated, and a central data bank must be established with round-the-clock availability of information to every police agency in the United States. In this way, we can strike a death blow against this profitable criminal activity.

Obviously, tremendous financial resources are available to organized crime, and these criminals do not hesitate to put their resources to use in attempting to subvert the criminal justice system, the police and other public officials. To withstand such corrupting influences, law enforcement officers must be of strong character and must maintain a high moral code. Police administrators must insist upon the highest standards of integrity and professionalism, and must be uncompromising in rooting out any officers who sully themselves and their profession.

Police work is exceedingly complex. It is not as routine as it might seem to the citizen who observes a police officer issuing a traffic summons, directing traffic or checking a door. It involves, among other things, the exercise of discretion and decision-making of a very sensitive nature.

As the first-line embodiment of the law, the police officer possesses the authority to deprive someone of his liberty, and in extreme cases even of his life. Society must see to it that the men to whom it entrusts this awesome responsibility are trained to exercise the mature judgment and dispassionate objectivity that we rightly expect from a professional.

Today the law enforcement officer must possess a wide variety of skills. There is considerable truth in the observation that to be a policeman in these times a man must

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be a combination of lawyer, scientist, psychologist, social worker, race relations expert, marriage counselor, youth adviser and many other things. While police officers can operate successfully in certain situations without the benefit of higher education, it is my opinion that college training is becoming increasingly necessary for the urban police officer. The depth that generally flows from higher education lays a solid foundation for the sensitive tasks frequently encountered in police work. We are presently exploring methods of providing more of our officers in the New York City Police Department with the incentive to pursue college and graduate studies.

Thus far, I have dwelt on the relationship between the police and the society we serve. But it is vitally important to point out that a municipal police department is not an isolated agency with either the responsibility or even the ability to deal independently with the antisocial behavior branded as criminal. The police are only one segment of the criminal justice system, a phrase that unfortunately signifies the goal of a fully integrated, smoothly functioning process rather than an existing reality. The quality of protection and justice available to society depends on improving each agency in the system and seeing to it that they coordinate their specific functions in achieving common goals.

One example comes readily to mind. The policeman who makes an arrest merely begins a process that, if the suspect is convicted, leads to the corrections authority. What occurs at that stage decisively affects the impact of the police officer's labor. Rehabilitation must be the goal of modern corrections, and the salvation of the individual should be foremost, if for no other reason than that the safety of the public demands it. Statistics indicate that sixty to eighty percent of all felonies are committed by recidivists. If we could rehabilitate a small percentage of these offenders, the crime rate would drop significantly. Our present penology system too often exercises vengeance against the violator, and society necessarily receives the same treatment in return from him.

If the prisoners who enter the portals of our prisons and penitentiaries are not already hardened criminals, they are apt to be when they emerge. Instead of rehabilitating the inmates, educating them and enhancing their skills or trades and teaching them new ones so that they can function on the outside, our penitentiaries act as "finishing schools" or advanced training bases where criminal skills and techniques can be polished and contacts made for future reference. And probably the most dire effect is that they intensify the prisoner's hatred for society and the "I'll get even" attitude.

What is almost as bad is that in those instances where more constructive theories of penology have been recognized, the legislatures have frustrated any practical efforts toward rehabilitation by denying corrections officials adequate resources. The result in either case is the same; many men are released from prison no better adjusted to the norms of society than when they were originally convicted.

Our penal or correctional methods and institutions are only one of the other parts of the criminal justice system in the United States. Change is also required in our courts, in our prosecutor's offices, and in our definition of criminal behavior.

Courts and prosecutor's offices are staffed with judges and lawyers who are schooled in the law. But their training does not necessarily prepare them to be effective managers of sizeable organizations, nor does a legal background automatically familiarize them with the principles of modern administration. Professionals other than lawyers are required to replace antiquated methods and eliminate the waste and inefficiency that create the huge backlogs that currently confirm the adage that "Justice delayed is justice denied"—both for the accused and for society.

The pressures on all of the agencies in the criminal justice system could be relieved if we were confronted with fewer laws designed to control essentially private morality. Police attempts at enforcement of unenforceable laws subject the police and the law itself to disrespect and corruptive

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influences. These laws also provide the organized criminal syndicates with the illicit industries upon which they thrive, since the average, otherwise law-abiding, citizen cooperates with these enterprises and refuses to aid police efforts to eliminate them.

There is room for optimism on each of the fronts I have discussed. Resources for an effective system of criminal justice are being made available, and the federal government is gradually moving to accept its pivotal responsibility to contribute to the financial and technical assistance that is indispensable to hard-pressed states and cities. Further commitment by all citizens and by all levels of government is necessary if a truly effective criminal justice system is to emerge.

Our society has changed immensely in a relatively short period of time, and it will change even more in the foreseeable future. Those of us who work in the criminal justice system are no longer afforded the luxury of time. We cannot tread water, for that is to invite engulfment. We must move boldly into the mainstream of the tide of change—and change, in my estimation, is the essence of progress.

Consider Yourself

GARY MARGOLIS

Consider yourself a right
the way you would the wind.

Allow sun to approach you
so the rain can follow.

This will include caring
for things inside of things.

Let some blossoms suppose
they are playing into your hands.

As a rule stones will sing

Give what you can
what you have never been given.

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Heroin and the Black Community

VICTOR E. TAYLOR

I find it impossible to think about "scag" (heroin) without immediately and exclusively focusing upon how scag is tearing the black community apart; how the sale and use of scag are so common that it's unquestionably tainting our future generations; how the impact of scag is more intense and widespread on us than it is on whites; how our children of today are being decimated and stunted through the use and sale of scag.

I was a "stuffer" for a long, long time, for nearly two decades. Then, during the early stages of a four-and-a-half-year caging in prison, something happened. I began to resent the use, sale and existence of scag. I hated the myriad ways in which it altered the life-styles of everyone who made contact with it. When this revelation hit me, I was convinced that I couldn't make that scag scene again, no matter what. I had a particular social something I wanted to do. I wanted to dedicate my future efforts toward tackling some of the innumerable problems that plague the black community.

Using scag, I wouldn't be able to produce, because scag is definitely counterproductive. Scag, in the past, had not allowed me to do anything other than stick-up, get high (use scag); steal, get high; be unkempt and homeless, get high; get high! Get high! Get high! I am thankful that the resentment scag aroused in me prompted me to think about what could be done to combat the scag plague in behalf of the black community.

Something could be done within the prison I was in. I had access to and I was on good terms with many of the scapegoat brothers who were serving time for either sale or use (or both) of scag. Many were close friends. Others were acquaintances. With some I had used scag in preprison days. Both they and the black community had to be liberated from scag.

Eventually, an idea came through, an idea that was feasible within the prison context. The response from the brothers to whom I presented my idea was enthusiastic. They liked it so well that they were willing to do what they could to bring it to life as quickly as possible. But there was one problem to contend with: convincing the prison administrators of the merit in the idea so that it could be implemented. To date, this problem still exists.

Be that as it may, my idea was that community therapy classes should be held within the prison, controlled and conducted by a coalition of community groups representative of Philadelphia's "inner city." I believe that such classes, initially, should be for the purpose of teaching inmates that they have a definite social, racial and familial obligation to aid the black community in its efforts to curtail, erase and prevent the sale and use of narcotics among the community's youth.

I believe community groups and social action organizations would be more effec-

✪ VICTOR E. TAYLOR, executive director of the Prisoners' Rights Council in Philadelphia, served four and a half years in the Pennsylvania State Penitentiary at Graterford for aggravated armed robbery and use of narcotics. His conviction was overturned in 1970 on grounds of ineffective defense counsel. Born in 1940, Mr. Taylor became involved with drugs in his mid-teens and was addicted to heroin for ten years prior to his arrest. He has had only eight years of formal education, but used his time in prison to educate himself.

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tive in their narcotic and drug prevention endeavors if they would enlist the assistance of those very persons, sometime constituents in their communities, who have trafficked in and/or used narcotics and drugs; who are more attuned psychologically, ideologically and sociologically to narcotic and drug motivational factors; who are aware of the debilitating effects of narcotics; who intimately know pushers and users and who are predisposed to aid in extirpating those factors that are emasculating blacks politically, socially and psychologically.

Narcotics trafficking and usage are running rampant in the black community of Philadelphia. Joining hands in this romp of users of scag and monster (drugs that stimulate the central nervous system) are the pill-poppers, acid-dippers, syrup-drinkers, glue-sniffers and joint-smokers. Drug and narcotic arrests in Philadelphia have leaped an astounding 413 percent since 1965. From fifty-eight to eighty percent of these arrests are of blacks. It is estimated that Philadelphia has one hundred thousand drug users, each a potential seller!

Parents, teachers, community groups, social action agencies, neighborhood councils and inmates have found the social phenomenon of narcotics and drugs frightening, formidable and frustrating. Moreover, community groups and others have recognized the inescapable necessity of combining, and investing their joint efforts in salvaging their youth from the catastrophic effect of narcotics. This awareness is partially nurtured by the apparent inability of federal and local governments to contain the flourishing sale and use of narcotics.

The effectiveness of community groups in this drive would be markedly enhanced through adoption of my idea. And, I believe, the very fact that in the past I contributed to this drug and narcotic problem is ample reason for a more than serious consideration of this concept. Let us take a cue from the business world:

When giant manufacturers want to market profitably new electrical appliances (most of which are basically unessential), one of their first tasks is to educate the consumer. Educating the consumer really means creating in the potential consumer's mind an identifiable need for that particular product. Ask any copywriter in the average advertising concern.

Community groups should commence educating inmates in the community's goals and aims, using basic principles similar to those the electrical manufacturer uses to make the consumer want to buy his appliance. The community needs the aid of blacks who are caged.

There are many other reasons that indicate the merit in this idea—notably, the fact that there is no known cure for addiction to scag and monster, the usage of which is prevalent in the black community. Prevention appears to be the best cure.

Despite statistics or current medical knowledge to the contrary, I have known, seen and talked with too many narcotics users who have had two, three, five, ten and fifteen years' incarceration serve only as a temporary interruption of their relationships with narcotics. This situation, I believe, is due to psychosocial addiction. In such cases, a prevention program should be primarily aimed at modifying the psyche, and, in many cases, community groups may accomplish this task by etching in the minds of addicts specific racial, familial and social obligations.

Not only have the individuals comprising community groups found it necessary to organize and fight against a burgeoning narcotics and drug problem; they have also found it necessary to organize for consumer protection, against rent and housing exploitation, for adequate federal and local public services, and so forth. Simultaneously, the groups have had to divert some of their organizational and individual attention to a persistently rising cost of living; a community unemployment rate that is presently at an appalling thirty-four percent; significant erosion of the purchasing power of the dollar; political indifference and chicanery in regard to social problems—especially drug prevention at the grass roots level; ubiquitous discrimination, racial and economic; and—crime!

Crime, statistically and psychologically, represents an even greater threat to black

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urbanites than do drugs. Because of this fact and its close relationship to today's drug phenomenon, community groups' inveterate interest in crime prevention indicates that they should also focus on the scag problem, commencing with their apparent social enemies.

The population of the prison that I was in was regulated to keep it two-thirds black. Ninety percent of the blacks were criminal offenders from the black community of Philadelphia. We numbered about one thousand. Average inmate turnover came after anything from three to five years. Take a look at the criminal havoc that we blacks contributed to in Philadelphia.

For the eighteen-month period from January 1, 1969, through June 30, 1970, here are the figures:

Of 447 murders, 74 percent of the victims were black; 92.7 percent of the identified slayers were black. Of the 703 rapes that were committed, 68 percent of the victims were black as were 86 percent of the offenders. Of 7,472 robberies, 38.1 percent of the victims were black; 93.4 percent of the robbers were black and 98.9 percent of the black victims were robbed by blacks. Of 5,255 aggravated assaults, 69 percent of the victims were black, as were 83 percent of the offenders.

Of course, these statistics do not reflect the whole story. There are many tangible and intangible ramifications. For example, Andrew F. Brimmer, the one black member of the Federal Reserve Board, estimates that crime cost blacks close to three billion dollars in 1969. It prompts higher insurance premiums, insurance cancellations and reduced coverage. Because of crime, the cost to the consumer of goods and services soars. Taxes have become unduly burdensome. The black community is deprived of that element vital to urban political power—community cohesiveness.

Crime is the most compelling reason for the community to focus its attention on those in prison. Crime is much more commanding than the narcotic and drug problem, arguably. The drug and narcotic problem, however, should be given top priority because crime prevention along these lines would be a much more difficult project to institute directly. But, after the establishment of community-inmate rapport through the drug project, inmates, generally, would be more disposed to suggestions and ideas that had crime prevention as their goal. The forces that command, suggest and induce criminal behavior patterns, generally, are much more complex and diffuse than those that direct the behavior patterns of the drug and narcotic users. On this point, I exclude the narcotic and drug seller who views his behavior as exclusively commercial enterprise.

Generally, community therapy classes should be held once a week, and certainly not less than twice a month. They should be composed of approximately fifteen inmates per class. Therefore it may, and probably will, be necessary to have different members of the coalition operate classes simultaneously or hold classes on alternate weeks.

Small, informal classes would be best for both parties. Given the general air of suspiciousness that would be held by both the inmate and the class conductor, a small class would help to foster early fraternity and responsiveness. An element of relative trust, acceptance or "all-rightism" would have to be achieved for the inmates to heed and respond to what was being conveyed to them. A small, informal class would also allow for greater control by the teacher.

The coalition should have a specific program consistent with the initial aim of convincing inmates that, despite their circumstances, they have an obligation to convince others that selling scag is killing our children and tearing the black community asunder.

In the interests of building an active, ongoing relationship with the inmate and the prison, the inmate's response to the initial phase of this program should serve as the basis for future plans. Generally, the inmate will tend to think, understandably, that an appropriate response by him to the coalition's propositions might in some way

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help him satisfy his innate desire for freedom. This feeling should make the inmate, despite his apprehension, a willing listener to the opening messages from the coalition. While I do believe that the coalition should, and must have, the power to bring about an inmate's release, I also believe that such power should not be disclosed to the inmate.

The coalition should have, independent of the present system, resources that are capable of responding to the inmate. These resources should have the ability to regenerate the inmate's incentive and to aid him in becoming of use to himself and to society. They should be able to deal sympathetically with the inmate's antisocial thoughts, attitudes, and behavior patterns. In other words, the coalition's resources should be capable of responding to an inmate in a manner that will render him useful to the community.

For example, an inmate with a writing talent or the desire to write should be encouraged. At present, unless such an inmate is surreptitious in exercising his First Amendment freedom, his productions will be confiscated. If he attempts to purchase books that will aid him in developing this talent or interest, he is denied outright, generally, or discouraged through innumerable artifices inherent in the system. Consequently, his incentive is completely extinguished. The coalition could help such an inmate by removing these ridiculous obstacles. Development of this talent may be the key to such an inmate's achieving his social balance. If so, the coalition could bring about his release. A man saved. No longer a threat to the community.

An inmate with an aptitude for commercial art should be encouraged to develop his skill. No one actually knows whether or not his resocialization could be brought about by providing him with access to a commercial art tutor outside the prison, or by firing his incentive to develop artistically through allowing him to have his works exhibited and sold on the open market, or by having him produce work for the community. These are simple and practical methods by which an inmate might regain his sanity and gain a social balance.

An inmate who wants to learn a trade should be aided with resources greater than those presently available (which, comparatively, are none). Many released inmates find it necessary to hold a steady job in order not to violate parole. But such inmates, in many cases, cannot hold steady jobs because they've never had jobs before. They have hustled all their lives. The fact that they have always hustled is, probably, rooted in traditional expediency. Blacks were dehumanized on the scavenger jobs always allocated to them. Last hired, first fired, is still the norm today. Work, to a hustler, often means renting your body energy to a stranger; a hard, steady output for somebody else, knowing that you'll never acquire the things you want; regimentation; budgeting your money; an ordered way of life. This is a problem the coalition can deal with. They know it's a big jump from being a hustler to working for somebody else. The present system refuses even to recognize these differences.

There are many inmates salvageable for the community. Too many inmates, otherwise socially useful, are rendered unsalvageable by an animalizing prison system. There are inmates who appear unsavable, but that is mainly because there are no means through which they may be, at least, resocialized. The coalition can do much for the community by helping an otherwise socially warped inmate.

The black community must not cling to the tradition-sustained idea that criminal offenders should be socially ostracized. This group of miscreants are potential assets to the community despite their socially antagonistic behavior. If the black community would attempt to attack the community heroin plague through a program that focuses upon the black prison inmate, effective headway would be made. In addition, the community would discover within the prison relevant ideas, as well as a sincere interest in an active participation in tackling many of the community's problems. Black prisoners need not be enemies of the black community.

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Doing Violence

CHARLES THOMAS SAMUELS

Among the staples of banal movies, sex and violence have been equally deplored: by moralists, for debauching the public; by critics, for debasing art. Lately, the ordinary viewer has had second thoughts, at least about sex. Since morality begins at the box office, sex seems to be on the way out. Cinematically, this is good news. Mainly a private spasm, hence incommunicable, sex needs language to become expressive. Unless you shoot kinks and orgies, thus raising problems of legality to say nothing of visibility, the gestures of sex are boringly limited. Those of violence aren't. On formal grounds alone then, violence is a more appropriate subject for motion pictures. Furthermore, unlike sex, violence necessarily occurs in a societal context and involves moral or political issues that can be contemplated. It takes more numerous forms than sexuality and springs from a wider variety of intentions.

Unfortunately, film is a mass medium, and the masses have never been as interested in contemplation as in thrills. Because violence is cinematically thrilling, it tempts all but the most serious directors into sensationalism, thus warranting the critical disrepute in which it has always been held. Moreover, since, all things considered, sex usually inspires pleasant sensations and violence the reverse, violence is likely to be treated not only sensationally but falsely. When sex is lied about, the result is pornography; the pornography of violence results from the denial of pain.

Although the average viewer enjoys a bit of spectacular mayhem, since he is likely to be limitedly sadistic, he wouldn't want it to be truly disturbing. Hence, the average filmmaker is only piquantly violent. The surface will be acrid, but the depths will be sweet. Above all, the filmmaker won't allow a bad moral aftertaste or will wash it down with sentiment. A survey of current film violence, then, becomes an object lesson in how violence can be denatured.

The simplest method fills the spectator with self-satisfaction so as to numb him to suffering. *The Grissom Gang,* for example, comes from a novel so amorally worshipful of power that Orwell once used it to epitomize Fascism, but director Robert Aldrich and scenarist Leon Griffiths have turned *No Orchids for Miss Blandish* into a gangster *Love Story*. As in the source, a young heiress is kidnapped, incarcerated, and oddly attracted to one of her captors. In the original, however, she is inspired by *nostalgie de la boue*. Since suspense bids us identify with her welfare, our complacency is therefore threatened. To allow us greater comfort during the bloodshed, Aldrich tidies up Miss Blandish's motives. We aren't asked to root for an endangered lovely with perverse tastes; this heroine loves Slim Grissom out of instincts of self-preservation and sympathy. Furthermore, Slim isn't, as in the source, a mere slobbering idiot; he is also loyal, even knightly. Despite the murders he commits, Miss Blandish acknowledges a character that, in Slim's own words, "makes [him] better than the college boys."

For all its trashiness, *No Orchids for Miss Blandish* had a serious and frightening theme: the lure of violence to the seemingly respectable. Aldrich equates respectability with snobbish wealth, to exempt his audience. When Mr. Blandish retrieves his

CHARLES THOMAS SAMUELS' latest book, *The Ambiguity of Henry James,* has just been published by the University of Illinois Press.

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daughter, he reacts, not with gratitude for her survival, but with anger at the scandal she has brought him. But we know that nothing of Miss Blandish's has been violated except her white satin gown, itself the emblem of the false values often attributed to an aristocracy. Since we have been sympathizing all along with Slim, her protector, the film's conclusion simply bears witness to his superiority and, by implication, ours to the Blandishes in this world. Slim may have been declassed, dumb and deadly; but at least he knew how to love. The original novel measures the lower depths of respectability; this film, precisely the reverse. Aldrich relies on populist flattery and sentimental romance to soothe his spectator after any shocks caused by the violence.

As in his seminal *Bonnie and Clyde,* where thugs are presented as crypto-revolutionaries and cops as pigs,* Arthur Penn relies on the latest fashion in moral melodrama in his more recent *Little Big Man.* In old Westerns, cowboys killed Indians with the indifference of stars to extras; Penn now merely reverses that formula. The red now becomes "white," the white, "black." As the Indian Chief says, "There is an endless supply of white men, but there has always been a limited supply of human beings" (that is, Cheyennes). Since, except for Dustin Hoffman, all Penn's whites are hypocrites, madmen or murderers, whereas his Indians live up to their Chief, it follows that killing one is slaughter and the other, population control.

This double standard receives ample demonstration in two set-piece battle scenes. When the whites attack the Indians, they first appear as formal black lines slowly advancing against a snowy background, accompanied by rhythmic whistling and drums, so as to increase our horror when the beauty turns lethal. Screaming women, galloping soldiers, bolting horses, fires and many traveling shots create a visual holocaust, and the sadism is underlined by a wanton shooting of ponies, questioned even by one of Custer's officers. An Indian woman on fire runs before us; tents cave in; when the hero's wife is shot, she falls to earth over and over again, as he screams in grief. The music ceases; our ears are invaded by natural noise. Then, through waves of rising heat that turn them into phantoms, the soldiers drum, whistle, ride off into a "whiteout."

When the Indians retaliate, things are different. Custer goes mad before they strike (becoming like Jack D. Ripper from *Dr. Strangelove,* with a maniacal speech about bodily poisons emanating from a gland whose name he cannot even pronounce), and his adversaries are photographed from an angle that precludes the impression of organized brutality. When they arrive, they raise clouds of dust that enshroud their violence and, in a fight far fairer than that which had vanquished them, the Indians inflict few visible casualties. When they are through, a long dusty shot makes them resemble nothing so much as bathers gathering their blankets after a hot day at the beach. They, like the whites after the earlier battle, also ride into a "whiteout," but the parallel is wholly unwarranted, as the delighted audience makes clear. *Little Big Man* divides the world into those whose spilled blood is washed away by our tears and others whose assassination we watch with murderous glee.

Despite its stance of moral indignation at the treatment of Indians, *Little Big Man* isn't above reducing them to the level of low-class comics. (Even Chief Old Lodge Skins is given lines like these: "My heart soars like a hawk. Do you want to eat?") Moreover, the film lacks the simple morality to admit that violence hurts all victims equally. Still, its tendentious cartoon has some historical corroboration.

Sweet Sweetback's Baadasssss Song might also be defended as corresponding to real life, but it does even less than *Little Big Man* to guarantee its veracity. There is, first of all, scarcely any action, so that the film cannot dramatize racial injustice. A sex-show superstud is arrested in order that white policemen may look efficient, but while being taken in, he gets involved in an accidental fracas with the cops, beats one, and runs free. The rest of the film

* See my discussion of this film in the *Hudson Review* (Spring, 1968).

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shows him running from a world of caricatured white bigots and unimpressive blacks. Anything he accomplishes, although the film dubs him a "revolutionary," is a purely private act.

Produced, written, scored and edited by Melvin Van Peebles, *Sweetback* isn't a hymn of rage against black suffering, which through Van Peebles' arty multiple exposures we scarcely even see, but rather a hymn of praise to its creator, who is also its star. During the credit sequence, Sweetback is deflowered; although barely pubescent, he gives his partner a seismic orgasm. Later, when mature and fleeing the "pigs," he is surrounded by a gang of Hell's Angels, but where other blacks would fall victim to thuggery and racism, Sweetback conquers the gang's female leader through the delights of his phallus. Half the cops in America are evidently hunting him down, but he manages to elude them. Alongside this self-aggrandizing content goes an endlessly self-regarding display of cinematic technique. The film arrogantly claims, in its credits, to star the black community, but they are really accidental passengers on an ego-trip.

Since this movie exhibits little convincing brutality against blacks, it depends upon a feeling that exists before the viewer enters. Instead of inspiring a justifiable rage against white racism, it bleeds rage off in a phony surrogate victory. The black problem won't be solved by a few supermen eluding the cops, but you'd never know that at a screening of *Sweetback*.

The Grissom Gang represents a low level of devious violence, in which sadism turns into sentiment. *Little Big Man* appeals to a more sophisticated viewer for whom gore can be excused if it is moralistic. *Sweet Sweetback* softens violence by wish-fulfillment. But since sentimentality, partisanship and fantasy are relatively crude palliatives, they don't work for the truly sophisticated viewer. For him there remain the assuagements of art: hence the success of Bertolucci's *The Conformist*.

Ostensibly, this Italian film seeks to explain the violence known as Fascism. Having been molested by a chauffeur during his childhood, the hero, Clerici, courts respectability as a form of purgation. Since his time and place equate respectability with Fascism, however, Clerici shows that private zeal for being "clean" may lead to public corruption. In Alberto Moravia's novel, this historical irony is attenuated by facile psychologizing. In Bertolucci's film, it is reduced to facetiousness. Altering the book to show Clerici finally confronting his suppressed homosexual desire, Bertolucci seems to be observing nothing more historical than the nastiness of closet queens.

Only a callow viewer would think that Bertolucci is seriously propounding any explanation. Like his mentor, Godard, he is a capricious formalist; although by retaining the trappings of realism, he loses the master's integrity while gaining larger audiences. *The Conformist* offers just enough narrative coherence to satisfy the noninitiate, but it is really an inside joke for those who deem narrative a pretext for visual splendor. How private the joke is, Richard Roud, an admirer both of Bertolucci and Godard, reveals in *Sight and Sound*. On his honeymoon, Clerici is supposed to kill an old professor. Noting that Bertolucci has provided the victim with Godard's phone number, Roud shows that *The Conformist* makes sense chiefly as veiled autobiography. In it, Bertolucci takes Godard's subject (politics), dramatizes it with Godardian discontinuities, but then overwhelms its Godardian meaning with irrelevant and superficial beauty.

That the beauty both baffles comprehension and denatures violence, we see in the film's most important episode. While Clerici is conspiring against the professor, he falls in love with the victim's wife. Therefore, he persuades her not to accompany her husband to the destined site for the assassination, but she accidentally changes her mind and so must be killed. Before she dies, she begs Clerici to save her, but, despite their love affair, he doesn't respond. Since the ending makes Clerici a latent homosexual, his refusal to save Anna may be a first traumatic revelation of the depths of his inversion. But one can equally argue that he is traumatized by the lethal results of his conformism. The

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film supports neither contrary interpretation; Bertolucci isn't interested in character, but only in effect. To death itself, as to the connection between perversity and politics, he brings the sensibility of a skillful interior decorator.

As a result, the murder scene is neither painful nor revelatory, but only pretty (the great creaking forest slashed by beams of light) and finally ludicrous. Although most of the film shows Clerici and his henchman rushing to the crime, they are eventually joined there by so many other murderers that one wonders how Mussolini ever ran the trains on time. The professor is surrounded, imprisoned in his car, yet the murderers won't kill him until he exits. They sport an arsenal of firearms, yet they stab him to death. After he is killed, Anna is allowed enough liberty to confront her lover, and she almost gets away despite the odds against her, so that Bertolucci can stage a noisy hunt. Although shot in the back, she bleeds facially, but when she falls scenically onto a snowbank, her face is nearly white. *The Conformist* is the season's greatest hit with those who require neither logic nor pertinence so long as they have visual kicks. Like the audiences for the other films, they are content to ignore the fact that violence is terrible.

Conceptually at least, that is the point of *Murphy's War.* After a graphically presented shipwreck, Murphy is taken to a Quaker hospital deep in the tropics. He insists that the German submarine that torpedoed him still hovers in the area, but the sensible lady doctor who runs things remains skeptical. After events prove him right, he embarks upon a series of daring exploits that seem to accomplish retribution. Tragically, he succeeds only in rousing the Germans against the innocent natives, so that the doctor begs him to relent. By this time, World War II has ended, but the soldier in Murphy can't even let that call a halt. Ultimately, he destroys the submarine, but also himself.

Murphy's War mocks a romantic ideal: the wise-cracking, he-man protagonist of countless war movies. The final shot of total destruction is meant to sink a genre. Unfortunately, neither the writer (Stirling Silliphant) nor the director (Peter Yates) is wholly weaned from his models. Although the ending points out the futility of war, the bulk of the film conventionally celebrates true grit. Murphy may be a senseless death machine, but the film stands in awe of his dogged ingenuity. Significantly, when a friend criticizes the warrior's stubbornness ("You're a small and lonely man. The world will never build us a monument. The difference is that I know that."), the language acknowledges quixoticism, not, as it should, criminal stupidity.

Moreover, *Murphy's War* doesn't make violence as repellent as the ending suggests it really is. The opening shipwreck is terrible in the lush manner of Delacroix, while the final holocaust seems only tame. Unsurprisingly, none of these films shows us that violence is ugly. Shooting in *The Grissom Gang* accomplishes no more visible penetration than does sex. In *Little Big Man* and *The Conformist* bloodshed is stylish, although the former stigmatizes beauty when it accompanies the wrong side. As I have said, *Sweetback* renders violence almost invisible. Only one current film really shows what a bullet or a fist can do.

Early in *The Cop,* a French gangster movie, some henchmen who have killed Françoise Fabian's brother wreck her apartment and brutally beat her—all the while screaming the names of famous battles, to which they compare their violence, and accompanying their final blows with the word, "Apocalypse." *The Cop* reconstructs a milieu of apocalyptic brutality to show what violence does to human life.

Violence erodes all distinctions, even between those who perpetrate it and those who oppose its brutal sway; this ironic message raises director and coauthor Yves Boisset's film above mere sensationalism. To establish the implacable force of violence, Boisset begins his story with an attempt at resistance. Because he doesn't like what drugs do to kids, Françoise Fabian's brother balks when a supercrook invites him to extend his criminal profits by selling some. The supercrook doesn't, however, appreciate this untoward fastidiousness; the brother is beaten and hurled from a balcony, blood bursting from his

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body as it hits the pavement. Thenceforth, blood unwaveringly begets more blood.

After the murder, the victim's friends vengefully determine to kill his assassins; simultaneously, although for different motives, police join the hunt. The friends arrive first, achieve their goal, and thereby become not allies of the cops but their prey. While chasing them, one officer makes the second attempt in the film to resist violence, but it turns out as badly as the first. He fires a warning shot at the fleeing killers in recognition that they have rid society of an even greater crook, but the pursued don't appreciate, much less comprehend, this moral concession. With a reflex action, one of the criminals answers the warning shot with direct and lethal fire. Now the dead cop's colleague (superlatively played by Michel Bouquet) is in exactly the same position as the assassins. Throughout the rest of the film, he adopts not only their vengeful motive but their unscrupulous methods as well.

Because the supercrook had earned protection by means of generous kickbacks to more highly placed cops, Bouquet, like a criminal who cannot use the police to right wrongs done against him, is forced to operate outside the law. This produces even bloodier instances of violence, which also deepen our understanding of the film's major point. One scene may serve to exemplify this. In the search for his colleague's murderer, Bouquet arrests an accomplice and tries to force a confession by means of torture. Against a background of flaking blue paint and old file boxes, we see the handsome criminal's bleeding torso: a hideous tableau of frail flesh. Yet the hideousness is required to prove the frailty, and the frailty explains such people's herding instinct. Because they live in a world of unremitting violence, both the crooks and the policeman have need of some defense. This they find in group loyalty, a loyalty that simultaneously limits the vulnerability of each man and affirms that he is not simply a beast who hunts and is hunted. Consequently, the accomplice refuses to divulge the assassin's name. "Friendship is funny," Bouquet remarks, failing to acknowledge that it produces equally bizarre results in him. He tells the prisoner that he will swear the man wasn't an accomplice in exchange for the murderer's identity, and he wryly assures him that the word of an officer is legally unassailable. As events turn out, the name is provided by a Ministry aggrieved at the death of the profitable supercrook. Now that he has accomplished his ends, Bouquet is no longer his captive's enemy; he jokes with the man and offers him a beer. All cops aren't members of the Gestapo, he amicably comments.

But the film's final irony is that crooks can't admit this. Violence erodes distinctions, except the one distinction that causes violence. The adversity experienced by crooks and cops is based on the insistence by each side that the other is a homogeneous opposing group rather than a collection of individuals who possess the normal quotient of variety. *Every* cop is the enemy of every crook and all he represents; the same is true for criminals. If either admitted shared diversity, violence would be at least mitigated. This was what the murdered policeman was trying to say when he tried to spare the supercrook's assassins, but Bouquet, at the time, had told him that all crooks are alike. This is what the accomplice's alibi asserts when he agrees that Bouquet is just in seeking vengeance, although when Bouquet had visited him and tried to beat him into supplying information, the alibi had turned to his son and had exhorted the boy to remember that all cops are bastards. Only when violence has worked itself out, only when each group has avenged itself on the other, can a human act of distinction occur. The film ends with Bouquet promising, even at the cost of his career, to expose publicly the difference between a big crook who is protected by official malfeasance and a small one who must practice rough justice. Nevertheless, this last act of heroism doesn't cancel out the more harrowing message literally pounded into us by all that has come before. As Bouquet tells Françoise Fabian, police are like a bodily organ charged with swift, efficient voiding of excrement. Since, in law enforcement, speed and efficiency equate with violence, the organ of elimi-

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nation defiles the body that it is meant to serve.

The very gross moral melodrama that *Big Man* and *Sweetback* use to make violence amiable is exposed in *The Cop* as a principal cause of violence. *The Conformist* throws a veil of artiness over bloodshed, but *The Cop* exhibits its awful reality. *The Grissom Gang* makes crooks speciously honorable and morally potent, but *The Cop* shows them, less romantically, as prisoners of an infernal machine. *Murphy's War* ultimately pulls back from the glamorizing of vengefulness, but *The Cop* never for a moment disguises its corrupting influence. The other films do violence to the truth of their subject; to serve truth, *The Cop* does violence to us.

ANTONIONI Poem

ALEXANDRA GRILIKHES

Sometimes, yes the wind is coming

asking questions I can't hear
murmurs I don't understand
how I love the murmurs I don't
understand, they are like the
fulfillment

that fades out of my hands
and the trees, shocking,
shocking in color, the landscape an enormous
sea of magnificent moving under
ominous

sun. Here, yes, you
are and I know you
so I slip off my green lenses

my smiles, begun before, change with the undercover
of my eyes I don't know you

✪ The poems of ALEXANDRA GRILIKHES have been widely published both here and abroad. She is preparing a collection for publication.

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What Prisoners Are Reading

For this special issue of the SCHOLAR, *the Editors invited prisoners in institutions across the country to answer for us this question: What book, new or old, that you have read recently has meant the most to you—for enlightenment, for entertainment, or for new or deeper understanding of some of the problems of being human? Of the seventy-five prisoners who responded, fifteen chose to write about books dealing with the black experience. The three other major groupings were: self-help books; books about crime and imprisonment; books about alcoholism, drugs and mental illness.*

Presented below are the ten responses adjudged best. The writers of the first five comments were awarded twenty-five dollars each; those who received Honorable Mention were given a book of their choice.

In an attempt to gain a deeper understanding and a more objective insight concerning the racial situation in this country, I have read many books on the subject recently. Most could be called "message" types. The other two alternatives seem to be strict analyses (statistical) and "angry" books. However, *Black Rage,* by William H. Grier and Price M. Cobbs, transcends any of these definitions. The authors have gone far beyond trite truths and profanity-filled tales. What they emerged with is a beautiful and profound series of insights into the lives of black human beings in America today.

Grier and Cobbs have compelled the reader to change his concept of the race problem when dealing with it objectively. The result, ultimately, causes one to view the situation not as an institution, but as a people. In the final analysis any institution consists of simply the people involved. This idea makes the book not only highly readable, but truly human. For it may be much easier to avert one's gaze from an institution than from an individual.

For two years I have been here in the Federal Reformatory for Women. During the trial and after arriving here, I have had my share of psychological, psychiatric, I.Q. and educational testing. I have never ceased to be amazed at the content of these tests. If the social workers and doctors who administered them had read *Black Rage,* they might possibly have been enlightened far beyond their academic training. The point here is that it is impossible for most black people to relate to the statements and questions on these tests. Since there is no correlation between my life-style and that in the hypothetical situations on these documents or in these conversations, the results are meaningless.

Since the greatest social problem in the world today is simply man's understanding of his neighbor, I would hope and assume that many people of all races were as touched and honestly informed about black Americans, after reading this book, as I was.

PAULINE COLLINS
Federal Reformatory for Women
Alderson, West Virginia

*

The most socially significant book that I have read as a convicted felon is *Papillon* by Henri Charrière. This book deals mainly with the penal structure in France at the turn of this century. It is a masterful story of the three penal islands that formed the French penal colony off the coast of French Guiana and the men who inhabited them. The story surrounds Henri Charrière, nicknamed Papillon for the butterfly tattoo on his chest; he is a strong man, a leader, and most of all a man who will settle for nothing less than total freedom.

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There was no threat great enough to deter this man from his quest for freedom, not solitary confinement or even death.

Reading *Papillon* and following this man's *cavales* or escapes, the one thing that stuck in my mind was the attitude of the people who gave a helping hand to this man. The common South American people knew just what was happening in the *bagne* or prison; they were knowledgeable of the type of treatment that men received there and were ready to help in any way that they could. The people of today will learn much from this book if they regard prisoners not as the Jimmy Cagney prototype but as the Charrière prototype. Perhaps this book will lead people to the edifice called "the penitentiary" to look at the type of treatment that men are really receiving in this enlightened day and age and to start the wheels in motion that will initiate a drastically needed change.

Our prisons are not working. They are historical throwbacks from times before Christ, but man will not accept the fact that the system, the idea, the concept is totally devoid of social value. Now is the time to reevaluate the system. Not unlike the tiger or lion, these wild dangerous animals don't turn into pussy cats because they have been inside a cage at the local zoo for the last ten years; this idea does not work for them, and people know this. Yet they still allow prisons to function, using the same standard to evaluate their progress.

ART MILLER
Wyoming State Penitentiary
Rawlins, Wyoming

*

A friend recently let me read his copy of *The Joint,* by James Blake. The book is a collection of letters Blake wrote during and between prison sentences he served in Florida; and it is one of the most honest and accurate depictions of the prisoner's and ex-convict's lot that I have read.

I doubt that the letters were written with publication in mind, but that's all to the good. Blake wasn't writing for anyone except his correspondents—he wasn't concerned with, or inhibited by, posterity. He tried to be interesting and entertaining while giving his friends a convict's-eye-view of prison. He succeeded despite prison mail restrictions and censorship that might well have been designed to stifle communication.

But censorship limits expression, *not* communication. Blake's book is a long one in which he makes many seldom-stated revelations about prison and prisoners. And by using implication he manages to insert as much between the lines as he does into the words and sentences. Also, unintended but perfectly accurate extrapolations can often be made from unconnected letters. The result is a book with far more compression than is realized at first. As with a poem, the more the reader brings to the book, the more he will get out of it, but it isn't necessary for the reader to have served a prison sentence—Blake's letters will give him a good idea of what it's like.

Blake has a sharp eye and a keen ear, and he displays both in his letters. He shows prison as it is, prisoners as they are, and strips the robes from a sick Justice. All institutions are made up of people, and Blake shows the people, individuals and types, that populate a typical prison; and he draws a vivid picture of their days, weeks, months and years there. I didn't have to pay to read Blake's book, but at $7.95 it's a rare bargain. The knowledge Blake gives his readers is usually bought with misery, not money.

ROBERT PETRABORG
United States Penitentiary
Leavenworth, Kansas

*

I shall try to select *the* book that most reoriented my thinking and made life more meaningful to me, although selecting one book out of hundreds is a struggle in itself. Since Freud has always been my childhood hero, I shall draw from his tradition in my endeavor. Therefore, I must say Norman O. Brown's *Life Against Death* was the most significant book in my life.

His approach to the psychological prob-

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lems of life through the study of the anthropological and psychoanalytical meaning of history has helped me understand the problems of sexuality in my childhood, my neurosis, and the dualism of my thinking.

It is not in isolation but only in appropriate association with my fellows that I can hope to attain the fullness of my personality, my energies, my power of action, and my consciousness, especially since I do not become completely reflective except by being reflected in another.

My foundation of you-need-me and I-need-you is the faith in the capacity of human nature, and it operates to form the attitudes, dispositions, abilities and disabilities that constitute a concrete personality within myself.

It at once becomes clear, when adapting this altered standpoint, that the purpose of a new outlook on life cannot be, as formerly, to achieve the highest possible degree of independence for myself in society, but rather to define the conditions under which the inevitable interdependence with others may be effected.

I have realized that the individual in human society has no right to remain inactive; he must seek to develop himself to his fullest extent, because upon his individual perfection depends the perfection of his fellows.

I must give you my thanks, Dr. Brown, for a new lease on a life I can live, rather than run from.

JAMES L. SMITH
Illinois State Penitentiary
Vienna, Illinois

*

The remarkable book, *The Autobiography of Malcolm X,* illustrates many points of blackness I had never thought of before —such as no longer hating my heritage: from slave ships to cotton fields, from backwoods huts to city ghetto, from last in the employment lines to first in the welfare lines.

When I read that Malcolm said, "Education is our passport to the future, for tomorrow belongs to the people who prepare for it today," I knew and felt his words were directed to me. I picked up every book, map and dictionary I could find and started the renaissance of my life. I have since completed my high school education, and plan to continue after my release from prison. I did all this behind walls—walls that were meant to contain me. They have my body but not my mind. As a result, they are becoming my inspiration to learn.

I also have discovered that without self-respect I'll never be able to look at myself in the mirror. Malcolm served six and a half years in prison; there he searched for truth, and emerged a new man. This also touched me. Being in prison, I feel, can do one of two things, make you or break you. When it breaks you, you become a vegetable. I have this imbedded in my mind, and I shall not be moved. If I hadn't read this book, I would still be sitting back feeling sorry for myself. I no longer feel sorry for myself but for those people who will be searching all their lives for that shot of vaccine that makes you want to stand up and be counted. I thank *Malcolm X,* for being that shot in my life.

BARBARA WILLIAMSON
Wisconsin Home for Women
Taycheedah, Wisconsin

Honorable Mention

The spiritually uneasy people who created the American Revolution by challenging the System of their day, who sent cannonballs down the corridors of power and gave new dimensions to the concept of individual freedom find their animus alive and well today in California.

The California Generation, a fairly recent novel by Jacqueline Briskin, was read with great poignancy by me, a prisoner of that state. Given the precondition of a frighteningly unjust trial (I am on appeal), I found the sweep of the novel highly relevant to contemporary unrest and to the emerging life-style that places thought

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above matter, a reversal of the American value structure.

Having been made violently aware of the realities of American injustice (an old story to ghetto dwellers), and of the need to excise diseased tissue from the body politic, I rejoiced to find a book in a prison library that was supportive of my outrage. While one doesn't expect to find liberal thought on the bookshelves of durance vile, I was wryly amused to discover that politically stimulating thought can osmotically intrude into the intellectual wasteland of Birchism.

I was deeply moved by the novel's political protagonist impacting against the funereal march of time, against the rigidity of time. I felt that his idealism, or at least some degree of it, is on the immediate historical horizon, but that he stood helplessly outside of the time phase by being ahead of it.

His destruction seemed inevitable to me. With my own anguished involvement with the forces he fought so valiantly against, I fully appreciated the magnitude of his efforts.

Those flimflam men of the ruling elite hide their excesses and crimes behind a smokescreen of legislation, rhetoric, and invocations of patriotism. The best minds of our times have been bought by those who profit most from the status quo, and have for years contributed to the distortion of democracy in America.

Not ever before in the history of man has a power elite had the devices of self-perpetuation enjoyed by today's Establishment: motivational researchers, pollsters, and the deadly persuaders—cinema, television, advertising, radio and publishing. With a population mass relentlessly influenced by subliminal pressures favoring a conservative stance, it is a tribute to the human spirit that any man, armed only with conviction, would attempt to combat these colossi.

Periodically, the encrustations of human clay that clog the progress of onward striving men must be broken loose. It is one thing to have your feet on the ground, quite another to be hip deep in mud.

The California Generation, penetrating the contrived oblivion of prison, reminded me that we are approaching another shedding stage, and that there is still reason to hope.

As you can see, the influence of the book is with me still.

JAMES M. MABRY
Don Lugo Community Center
Chino, California

*

Daniel Casriel's *So Fair a House* is the story of Synanon, from its founding in 1958 by alcoholic Chuck Dederich, to the establishment of four separate treatment centers in 1963. Prior to his acquaintance with Synanon, psychiatrist Casriel had virtually given up on the drug addict: "Put him away either in hospitals or jails for the rest of his life—or give him all the heroin he wants." His study led him to conclude that, "Synanon holds the solution to the enigma of drug addiction"; and further, that it is "a major breakthrough in the treatment approach to all types of acting-out character disorders . . ."

Sexual offenders have much in common with drug addicts: antisocial, criminal behavior threatening to society; marked emotional and social immaturity; and a selfish and disturbing disregard for hurtful consequences to either themselves or others. Similarly, they are poorly understood by both the lay public and psychiatry, demonstrating discomfortingly high rates of recidivism following typical psychotherapy. No surprise then that a relatively new treatment program for "sexual psychopaths" at Western State Hospital in Washington has borrowed heavily from Synanon's approach. As in the latter program, there is a paternalistic, autocratic family live-in structure which employs aggressive, provocative group encounter with savage, hostile verbal onslaughts and ridicule to break down defenses, only *after* which one may receive acceptance and love from the group. According to Dederich, "One cannot get up until he's knocked down." Such brutal verbal assaults may be irrational, unfair, even unjust, but they must somehow be

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survived through the months and years necessary for a psychological "re-birth" to occur.

One may debate theories and practices, but it is difficult to criticize success. As one of the failures from Western State's treatment program, this reviewer found enlightenment, occasional disagreement and some frustration in this book.

ELTON L. STEWART
Washington State Penitentiary
Walla Walla, Washington

*

The most interesting and informative book recently read by me would have to be *The Power Elite,* written by C. Wright Mills.

I have always wondered how the government is run behind the scenes, whose opinions are really taken into consideration in all major decisions. How the little as well as the politically and economically astute are affected by these decisions. Also, some of the thought patterns of the clique which controls the mass media that affects us all.

Most writings and topics on the power structure of this country have been concerned with some pertinent aspect of that power, such as the political parties, the Senate, or Joint Chiefs of Staff, *et cetera.* This book has seemingly transcended the usual, and, in doing so, captured the whole picture.

Most contemporary books are either defending the power structure or radically concerned with its shortcomings and ills. This book simply explains in an unbiased way and offers the reader (as so many do not) the freedom of forming his or her own opinion.

JOHN W. TAYLOR
Federal Correctional Institution
Texarkana, Texas

*

I have recently completed reading a book by W.E.B. DuBois called *The Souls of Black Folks.* I have used this book as the basis for a book report in an Afro-American college course offered to the inmates here.

This book has helped to give me some insight pertaining to the racial strife which is threatening to tear apart our nation today. Mr. DuBois uses several essays to portray how the black man has been forced to live behind an invisible veil apart from the white members of our society. It deals with the pressures that were put on the newly freed slaves during and after the Civil War.

The book points out the hardships of trying to compete in a nation of material wealth while at the same time being denied the avenues which lead to this wealth. The irony of the book is in the fact that it was published by Mr. DuBois at the turn of the century in 1903, and many of the same problems of prejudice and racism which the American black faced at that time are still in evidence today.

The problems and frustrations of being freed *de jure* while continuing to be enslaved *de facto* through lack of education and access to economic and political means have perpetrated the situation which our nation finds itself in today. Future black power movements, riots, *et cetera,* are inevitable if there isn't a change. This book has helped me to see that if the American blacks and minorities aren't once and for all given their freedoms that are guaranteed to them in the Constitution, then the Constitution will be regarded as just another piece of paper, and this nation will slowly sink to the bottom of the ladder in national prestige and in the eyes of the rest of the world. By truly uniting with the different races toward a common cause, with equality and true justice for all, regardless of color, race, financial means or any of the other things which seem to hamper this nation, then and only then will we be considered a United States Democracy, and then we will be able to stride forward as a great nation. I feel that there is a definite move in this direction being taken by the lawmakers and the heads of various institutions in America today.

MIKE TOTH
Iowa State Penitentiary
Fort Madison, Iowa

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In part unlimited time to read and study do compensate for years of imprisonment. It had been thirty years since I had read Shakespeare in high school and college—rather reluctantly. Except for my imprisonment I probably never would have read Shakespeare's works again and certainly not in their entirety from plays to sonnets.

I doubt that many people, even scholars, read Shakespeare in such a way that they really enjoy his sharp insights into humanity. Culture and intellectual awe seem to preclude an objective approach. It took the total degradation of prison and a stark stone cell to strip me of the intellectualisms and cultural snobbism that stand between the ordinary reader and the most perceptive of commentators.

During my first year of imprisonment I picked up, for lack of something "better" to read, one of those old-fashioned finely printed texts of Shakespeare's *Complete Works*. The best seller list, however, soon seemed pretty pallid stuff when compared with *The Merchant of Venice* and *Othello*. Hamlet's, Lear's and the Macbeths' sufferings and mental agonies are duplicated in and around me in prison.

It was not long before I realized that I had never fully appreciated the depth of Shakespeare's almost unique understanding of what makes us tick. I guess that you have to suffer before you can appreciate someone else's agonies. I do not think of Shakespeare's people as fictional and I have no doubt that he had real persons in mind when he wrote. I do not recommend a prison cell, even though the experience might enhance understanding of Shakespeare, but I would recommend Shakespeare to every prisoner.

ROBERT F. URBANO
New Jersey State Prison
Leesburg, New Jersey

BOOKS COMMENDED BY PRISONERS

ABRAMOWITZ, ISIDORE, ed. *The Great Prisoners: The First Anthology of Literature Written in Prison*. Dutton. 1946.

BERGMAN, PETER M. and MORT N. *The Chronological History of the Negro*. Harper & Row. $12.

The Bible

BLAKE, JAMES. *The Joint*. Paris Review Editions. Doubleday. $7.95.

BRISKIN, JACQUELINE. *The California Generation*. Lippincott. $7.95.

BROWN, NORMAN O. *Life Against Death*. Wesleyan University Press. $1.95.

BRUNTON, PAUL. *The Secret Path: A Technique of Spiritual Self-Discovery for the Modern World*. Dutton. $1.25.

CADE, TONI, ed. *The Black Woman*. Signet. 95 cents.

CASRIEL, DANIEL. *So Fair a House: The Story of Synanon*. Prentice-Hall. $4.95.

CHAPPELL, CLOVIS G. *The Road to Certainty*. Abingdon. $2.50.

CHARRIÈRE, HENRI. *Papillon*. Translated by June P. Wilson and Walter B. Michaels. Morrow. $8.95.

CLEAVER, ELDRIDGE. *Soul on Ice*. Dell. 95 cents.

DARWIN, CHARLES. *Origin of Species*. Mentor. 95 cents.

DAWOOD, N. J., tr. *The Koran*. Penguin. $1.65.

DINNERSTEIN, VICTOR D. *The Wit and Wisdom of Spiro T. Agnew*. Price/Stern/Sloan. $1.

DOSTOEVSKI, FYODOR. *Crime and Punishment*. Signet. 75 cents.

DUBOIS, W.E.B. *The Souls of Black Folks*. Premier. 75 cents.

DULL, CHARLES E. *Modern Physics*. Holt, Rinehart & Winston. 80 cents.

ELIJAH MUHAMMAD. *Message to the Blackman in America*. Muhammad's Mosque of Islam, No. 2. Chicago, Illinois. $3.50.

EVANS-WENTZ, W.Y., ed. *The Tibetan Book of the Dead*. Oxford University Press. $2.25.

FAIRBAIRN, ANN. *Five Smooth Stones*. Crown. $6.95.

GAINES, ERNEST J. *The Autobiography of Miss Jane Pittman*. Dial. $6.95.

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GARDNER, LEONARD. *Fat City*. Dell. 95 cents.
GIBRAN, KAHLIL. *The Prophet*. Knopf. $4.50.
GLASSER, WILLIAM. *Schools Without Failure*. Harper & Row. $4.95.
GOLESTON, ROBERT. *The Great Depression*. Premier. 95 cents.
GREEN, HANNAH. *I Never Promised You a Rose Garden*. Signet. 95 cents.
GREGORY, DICK. *Nigger*. McGraw-Hill. $1.48.
———. *The Shadow That Scares Me*. Pocket Books. 75 cents.
GRIER, WILLIAM H. and COBBS, PRICE M. *Black Rage*. Basic Books. $5.95.
HALL, RADCLYFFE. *The Well of Loneliness*. Pocket Books. 75 cents.
HELLER, JOSEPH. *Catch-22*. Dell. 95 cents.
HORNER, LANCE. *Heir to Falconhurst*. Fawcett World. 95 cents.
HOWARTH, DAVID. *We Die Alone*. Macmillan. $5.95.
JOHNSON, GEORGE. *The Pill Conspiracy*. Signet. 75 cents.
LAFARGE, OLIVER. *Laughing Boy*. Houghton Mifflin. 1963.
LEWIS, OSCAR. *Pedro Martinez: A Mexican Peasant and His Family*. Vintage. $2.95.
LOH, ROBERT. *Escape from Red China*. As told to Humphrey Evans. Coward. 1962.
LONDON, JACK. *The Sea Wolf*. Edited by I. O. Evans. Horizon. $3.95.
LOVEJOY, ARTHUR O. *The Great Chain of Being: A Study of the History of an Idea*. Torchbooks. $1.95.
MACDONALD, JOHN D. *The Empty Trap*. Fawcett World. 60 cents.
MAILER, NORMAN. *Miami and the Siege of Chicago*. Signet. 95 cents.
MALCOLM X. *Autobiography*. With Alex Haley. Evergreen. $1.25.
MALTZ, MAXWELL. *Psycho-Cybernetics*. Pocket Books. 95 cents.
MELVILLE, HERMAN. *Billy Budd, Sailor*. Edited by Harrison Hayford and Merton M. Sealts, Jr. University of Chicago Press. $1.85.
MENDEL, ARTHUR P., ed. *Essential Works of Marxism*. Bantam. 1961.
MERTON, THOMAS. *No Man Is an Island*. Doubleday. $1.25.
MILLS, C. WRIGHT. *The Power Elite*. Oxford University Press. $2.25.
MUELLER, GUSTAV E. *Dialectic*. Twayne. $4.
NATIONAL TRAINING LABORATORIES. *Leadership in Action*. National Education Association. $3.
OUSPENSKY, P. D. *In Search of the Miraculous: Fragments of an Unknown Teaching*. Harvest. $2.75.
———. *New Model of the Universe*. Knopf. $8.95.
PEALE, NORMAN VINCENT. *The Power of Positive Thinking*. Crest. 75 cents.
PLATO. *The Republic*. Translated by H. D. Lee. Penguin. $1.25.
PUZO, MARIO. *The Godfather*. Crest. $1.50.
RAND, AYN. *Anthem*. Signet. 75 cents.
———. *We the Living*. Signet. 95 cents.
SACHAR, ABRAM LEON. *A History of the Jews*. Knopf. $4.95.
SHAKESPEARE, WILLIAM. *Complete Works*. Edited by George L. Kittredge. Thomas Y. Crowell. $15.
SHEEN, FULTON J. *The Life of Christ*. McGraw-Hill. $8.95.
Soledad Brother: The Prison Letters of George Jackson. Bantam, $1.50.
STONE, IRVING. *The Agony and the Ecstasy*. Signet. $1.50.
UPDIKE, JOHN. *Couples*. Crest. $1.25.
VROMAN, MARY ELIZABETH. *Harlem Summer*. Putnam. $3.49.

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The Revolving Bookstand . . . . . .

The Snows on the Moors

ALBERT I. BOROWITZ

Husbands and wives have been known to hold strong views about many things, and marriage provides no guarantee that those views will be congruent. Although popular fiction and cinema have attempted to present as intrinsically interesting the variances between husband's and wife's assessments of the same facts and events, there is perhaps in general no more reason to collect opinions in the "his" and "hers" versions than the towels, sleeping ensembles or other commodities that are customarily marketed in the same manner. When the husband and wife in question are novelists as distinguished as C. P. Snow and Pamela Hansford Johnson, however, and the object of their views is one of the most disturbing murder trials of our day, the Moors Murder Trial, a comparison of their individual attitudes may illustrate the possibility of highly personal intellectual and emotional responses by two thinkers bound by marriage, and at the same time assist the continuing assessment and development of public views on a matter of human and social concern.

Pamela Hansford Johnson's reflections on the trial of Ian Brady and Myra Hindley, the so-called Moors Murder Trial, were published in her essay, *On Iniquity: Some Personal Reflections Arising Out of the Moors Murder Trial* (Scribner's, 1967). C. P. Snow used the Moors Trial as the basis for the next to last novel in the *Strangers and Brothers* cycle, *The Sleep of Reason* (Scribner's, 1968). Despite the fact that the *Strangers and Brothers* series is rooted in actual events of modern history, it can, of course, be misleading to take *The Sleep of Reason* to be a literal retelling of the Moors Trial. Just as its immediate predecessor, *The Corridors of Power,* carries strong overtones of the Profumo affair, while stirring fainter reminiscences of the Dilke scandal, so *The Sleep of Reason* reminds us not only of Brady and Hindley, but also of the trial of the girls Parker and Hulme in New Zealand, and ultimately of the Loeb and Leopold case.

C. P. Snow's treatment of crime in *The Sleep of Reason* takes on added interest in light of the recent Avon paperback publication of his early detective novel, *Death Under Sail,* which first appeared in 1932. Although Snow now dismisses *Death Under Sail* as "a stylised, artificial detective story very much in the manner of the day," it has sufficient formal and thematic links with his mature work to warrant our noting, although with a light hand, the continuity of certain of Snow's thoughts about murder and crime. Even the most superficial glance at *Death Under Sail* immediately renews our acquaintance with the formal signposts marking the mature novels: the short, provocative chapter headings, and the habit of ending a chapter with one character addressing an intriguing question or delphic pronouncement to an unprepared companion. The narrative raw materials also

✪ ALBERT I. BOROWITZ is writing a series of articles about criminal cases of literary or historical significance. A partner in a law firm in Cleveland, Ohio, he specializes in corporation and business law.

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bear a family resemblance to those of the later works. We see in the early Snow whodunit the prominent use of a theme that was to run through many of the *Strangers and Brothers* books—the significance of integrity in scientific research as a touchstone of character and reaction in crisis.

A shared assumption underlies *On Iniquity* and *The Sleep of Reason,* that a crime or criminal trial may merit the close scrutiny of an intelligent person not professionally concerned with law or criminology. The question of why this should be so, although not capable of definitive answer, is a fascinating one and has received a good deal of attention in the literature of crime. Many of the alternative views are recorded by Patricia Pitman and Colin Wilson in their respective introductions to their joint work, *Encyclopedia of Murder* (Putnam, 1962). Colin Wilson, in his preface, entitled *The Study of Murder,* accounts for his interest in murder by relating the subject to his "outsider" thesis. He conceives the possibility of viewing an encyclopedia of murder as a series of exhibits in a lecture on the meaning of existentialism, in which one can ask each murderer his estimate of the value of life,

> and get from him the answer in quite precise physical terms: ten pounds, a snub, my wife's infidelity, a broken engagement, etc.

In his recent book, *A Casebook of Murder* (Cowles, 1969), Wilson has elaborated the basis of his interest in crime, which he characterizes as "philosophical." To him, the interesting thing about the Moors murderers, Brady and Hindley, "is that they were responding to certain social pressures with *freedom of choice.*" He makes more specific his identification of the murderer with the "outsider," in a manner that is surprisingly flattering to the murdering classes. He finds that society produces a substratum of five percent consisting of alienated men of often considerable imagination who feel resentment toward society and who are faced with obstacles, the overcoming of which may lead to art and creativity or to crime. The theoretical roots of this view are weakened a bit by Wilson's candid revelation that he regards abstract artists and atonal composers as little more than criminals whom society permits to run at large.

In asserting that philosophy is the proper ground for an interest in crime, Wilson expressly rejects the "aesthetic" approach to crime writing that derived from Thomas de Quincey and was adopted by those modern masters among British and American crime writers, William Roughead and Edmund Pearson. This school of writing, by ironic reference to standards determining the "beauty" of great crimes and by telling of murder in a predominantly humorous style, makes itself an easy target for Wilson's charge that such writers take unfeeling pleasure in human tragedy. In Snow's Inspector Birrell, in *Death Under Sail,* we have a good-natured caricature of the crime aesthetician, with his flatulent insistence that murder, like any other art, is determined by its "tempo." The classic crime writers, however, may be understood as claiming quite simply that crime is significant as drama, independent of philosophical or sociological implications. And if we include in this concept of drama the light that crimes may shed on social milieus and living patterns, we may list among the adherents of the "murder-for-aesthetics" school rejected by Wilson some very improbable literary aficionados of "true crime." One such enthusiast was Henry James, who, in encouraging Roughead to return from witch stories to crime writing, wrote him that he should "go back to the dear old human and sociable murders and adulteries and forgeries in which we are so agreeably at home."

It is possible to understand Wilson's distaste for the traditional crime writers in terms quite different from the dichotomy he offers between the "philosophical" and "aesthetic" approaches to a horrifying subject. Underlying his sense of a relationship between the criminal and the creative "outsider" appears to be a belief that the ideal crime writer should identify himself to a high degree with the criminal. Patricia Pitman, in her preface to her joint work with Wilson, takes a diametrically opposed view. She notes that the view that we are all

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murderers under the skin is "certainly a fashionable view." It is Miss Pitman's opinion, however, fortified by her reading of the very writers whom Wilson rejects, that:

> We are fascinated by murderers not because they are so like the rest of us but because they are so utterly different. I believe that most people are born with an instinct against cold-blooded killing and that murderers lack this instinct.

C. P. Snow and Pamela Hansford Johnson in their treatments of the Moors Trial obviously share the assumption made by both Mr. Wilson and Miss Pitman that the conduct of the criminal has a significant relationship with the observer's view of his own conduct and choices. But both Snow and Miss Johnson appear to emphasize, as does Miss Pitman, the observer's differentiation of himself from the criminal rather than the identification that appears inherent in Wilson's "philosophical" approach. And, unlike Wilson, who sees murderers as related to creative outsiders, Snow and Miss Johnson are concerned with the impact of crime upon the normal life of a community of observers.

The reference to the disreputable concept of the normal life may be forgiven in this context. For it appears clear that to both C. P. Snow and Pamela Hansford Johnson the phenomenon of crime has significance not only in itself, but also as a surrogate for the larger disasters that befall mankind. When one turns one's attention from war or genocide to the study of a criminal case, even one as brutal as the Moors murders, there is perhaps some unconfessed comfort in the scaling down of the losses, and the consideration in retrospect of what might have been done to avert the tragedy.

In this sense there is substance in the enthusiasm that the study of murder inspires in Inspector Birrell, the humorous crime buff in Snow's *Death Under Sail.* With the experience of World War II still lying ahead, Birrell refers to the investigation of crime as "one of the greatest romances in the world" and "a sign of all the good in our modern world." He rejoices that detective stories have replaced "ballads about war and brute force and lust."

In Snow's *The Sleep of Reason* Lewis Eliot's thoughts about the murder trial evoke memories of films of Auschwitz. Lewis Eliot admits to feeling a "shameful and disgusting pleasure" while watching the films—a fascination "because men could do these things to other men." But the crucial point is that this fascination with Auschwitz, with the cruelty of man to man, does not overbear in either Snow's work or Miss Johnson's the faith in the "normal" life, nor does it relieve or limit the responsibilities of that life. It is clear that neither writer is afflicted by what might be called the "Auschwitz syndrome," or the "Hiroshima syndrome": the tendency of many contemporary writers to excuse individual failures of morality or responsibility by setting them against a backdrop of the cruelties of modern history. American literature and drama since World War II have given us no more illuminating example of the Auschwitz syndrome than Arthur Miller's play, *After the Fall,* which opens its action against the silhouetted towers of a German concentration camp and proceeds to justify Quentin's failures in his relationships with his wife Maggie and others with the question: "Who can be innocent again on this mountain of skulls?"

Neither C. P. Snow nor Pamela Hansford Johnson returns from the view of crime or disaster with such a palliative for private standards of conduct. In *The Sleep of Reason,* Martin Eliot has little use for the easy switching on of the Auschwitz syndrome. He has contempt for a journalist whose articles on the trial will likely take the "all men are murderers" tack:

> Great throbbing pieces about how we're all guilty. So really no one is guilty. So really everything is as well as could be expected in an admittedly imperfect world.

Miss Johnson's view is put even more directly:

> The murder of one single child is made negligible by *nothing,* not even by Hiroshima.

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Pamela Hansford Johnson was asked by the *Sunday Telegraph* "to spend a day or so at the Moors Trial and write of [her] impressions." But the effect of the trial was so strong that she wrote her book *On Iniquity* to discuss at length the "social implications" of the case.

The facts of the Moors case are so horrifying that it is a relief to be able to present them very briefly on the ground of their general notoriety. Ian Brady, aged twenty-seven, and his mistress, Myra Hindley, aged twenty-three, were charged with the murder of a seventeen-year-old youth, Edward Evans, and of two preadolescent children, Lesley Ann Downey and John Kilbride.* The trial derived its sobriquet from the fact that the victims' bodies were discovered buried on the moors near Manchester. All of the murders were brutal and preceded by sexual assault or by torture. The interest of the murderers in de Sade, torture and Nazism was documented by Brady's collection of books, which he bundled into suitcases and checked at a parcel room at Manchester Central Station prior to the last murder. The sufferings of little Lesley Downey and her pleas for mercy were recorded by the murderers on a tape stored with their pornography collection, and they had also recorded their questioning of a friend of Lesley's with respect to the missing girl.

Early in the case, Brady admitted the murder of Evans, and the line of defense on this charge appeared to be an attempt to prove lack of premeditation so as to mitigate punishment. On all other charges, Brady and Hindley pleaded not guilty. Because of the defenses taken, the sanity of the defendants was not in issue, and the trial, with a total absence of psychiatric testimony, frustrated the desire of observers for some professional insights into the murderers' characters. It is observed in John Deane Potter's *The Monsters of the Moors* (London: Elek Books, 1966) that the discovery of the crimes occurred about the same time as the passing of the 1965 No Hanging Bill. Mr. Potter speculates that if the crimes had remained capital, the introduction of psychiatric evidence in support of a plea of insanity would have been much more likely.

The accused were found guilty on all counts, and were sentenced to life imprisonment.

There is no doubt that Pamela Hansford Johnson's attendance at the Moors Trial drew heavily on her emotional reserves. It may not be fanciful to find a reflection of C. P. Snow's concern over the profound effect of the trial on his wife in Lewis Eliot's comments on his wife Margaret's reaction to the trial of the young murderesses in *The Sleep of Reason*. He says that Margaret "had believed that she would be stronger than I was," but was "appalled" by her first day in court. Without doubting in the slightest the reality of the experiences Miss Johnson recounts, the reader of *On Iniquity* must be promptly struck by the degree to which, even prior to her first attendance at the Moors Trial, Miss Johnson found the town of Chester, where the trial was held, to be permeated by the evil that she was to find emanating from the case. She recalls her shock at noting that a couple of lovers, when breaking off their embrace in a public place, revealed themselves to be two males. She goes on to tell us how her walk through the town was ruined by her observation that she was being followed by an elderly man—ruined despite a feminine calculation that the old fellow was quite harmless. At the trial a silent relationship appeared to establish itself between her and the accused murderess—Myra Hindley seemed to look at her with hatred.

Although these impressions of pervasive evil are subjective in the extreme, they serve to dramatize Miss Johnson's thesis that there are evil people whose actions cannot be explained away as "sickness," and that Brady and Hindley were evil. It is significant that a writer as sophisticated as Miss Johnson shares with the popular journalists the feeling that the two mur-

*More specifically, Brady was charged with the murder of all three victims. Hindley was charged with the murder of Evans and Downey and of harboring Brady in connection with his murder of Kilbride.

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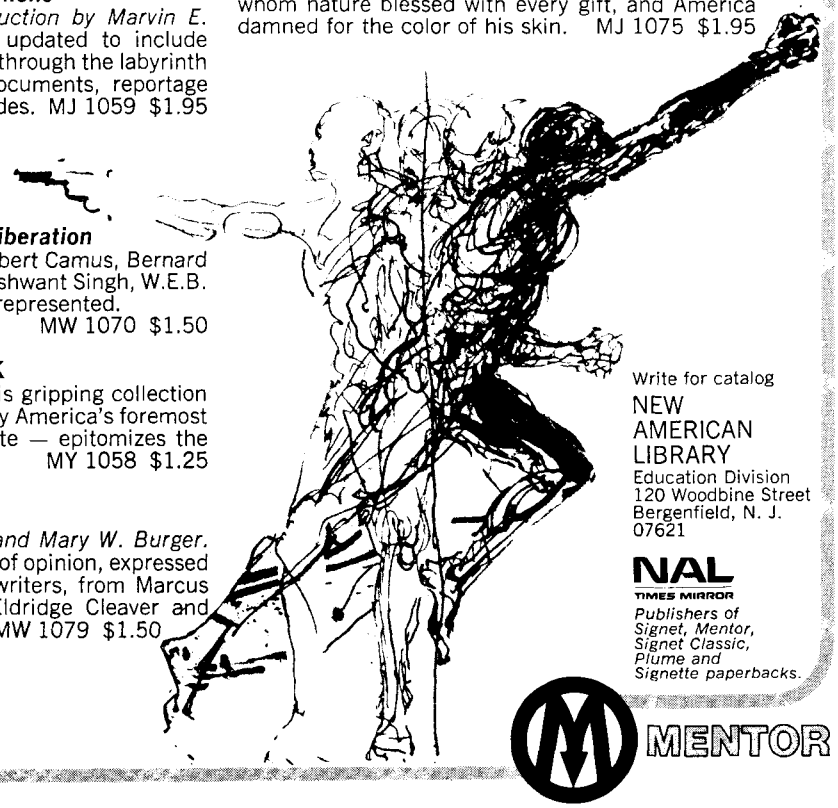

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derers are most aptly described as monsters.

Regarding the murderers as evil, Miss Johnson then faces the problem of relating the criminals' natures to her conception of her own. She refuses to manufacture a false empathy with Hindley, although she recognizes a general element of violence in the pleasure derived by many adults (including herself) in disciplining unruly children. (It is interesting to note that in *The Sleep of Reason* one of the murderesses, in her confession, recreated the dynamics of the crime in terms of the pretended parental discipline of the child victim.) Miss Johnson, however, does not believe that she could have committed the Moors crime; she says that her "instincts do not lie in the direction of Hindley's."

Finding iniquity in the Moors murderers, Miss Johnson devotes the bulk of her study to an inquiry into whether society has contributed to the breakdown of the murderers' inhibitions and the release of their wickedness into action. She answers this question in the affirmative, placing the blame on an all-permissive society that has given the masses freedom to indulge in violence and pornography, has encouraged the desire for instant self-gratification, and has given rise to a blunting of the sensibilities that Miss Johnson likes to call *affectlessness.*

In view of the quite literal involvement of the murderers' minds in Nazism, it may be too easy to cite Miss Johnson's essay in support of the thesis of this article that the study of crime has a logical and psychological tie with concern for the larger human cruelties and disasters. Nevertheless, it is striking how often the case in Miss Johnson's eyes summons up visions of Nazi Germany. She can visualize Myra Hindley as an affectless concentration camp guard. And, as the trial in *The Sleep of Reason* had reminded Lewis Eliot of a film of Auschwitz he had seen, so Miss Johnson is reminded of a viewing of films of the overrunning of Belsen.

The attack on the affectless society in *On Inquity,* however, turns out to be the prelude to what appears to be a primary concern with pornography and the portrayal of violence in literary and dramatic form, and a plea for the continuation of censorship. This aspect of the essay appears to reflect highly personal views of the author, which may have been strongly held prior to the Moors Trial although they were enforced by what Miss Johnson saw there. There is, for example, that English prejudice, which appeared in the Trial of Lady Chatterley *(Regina* v. *Penguin Books, Ltd.),* against permitting pornography to come into the hands of the lower classes. I call it a prejudice, because even if it be assumed that pornography may incite to crime, the study of criminal history will not show that multiple lust-killings are the peculiar preserve of the lower classes. In any event, Miss Johnson is candid in recalling in her essay that she had a little earlier stirred controversy by suggesting that Krafft-Ebing's work should not be made available in a paperback edition.

Another personal aspect of Miss Johnson's assault on pornography is a failure to distinguish between eroticism and the display of violence. One gets the impression that the arch-villains of permissiveness are to her the people who freed *Lady Chatterley* for mass adoration, and she notes as an immediate consequence of the *Lady Chatterley* trial that young people felt compelled to use four-letter words on the street.

The focus of Miss Johnson's analysis on the single element of pornography is surprising in the light of her rejection as simplistic of an explanation of Brady's criminal development on the sole ground of his illegitimacy. Moreover, even if the principal object of Miss Johnson's attack be taken to be the portrayal of violence, the facts of the Moors Trial will not bear her out. Miss Johnson cannot very well argue that Brady was initially corrupted by his reading, since in his childhood he engaged in the sadistic killing of animals. Can his proclivities have been aggravated by his reading? Although Brady's library included many works on torture, who is to say that he was more aroused and influenced by them than by his reading of *Mein Kampf* and his other books on Nazism? Even if we could rally our forces against literary

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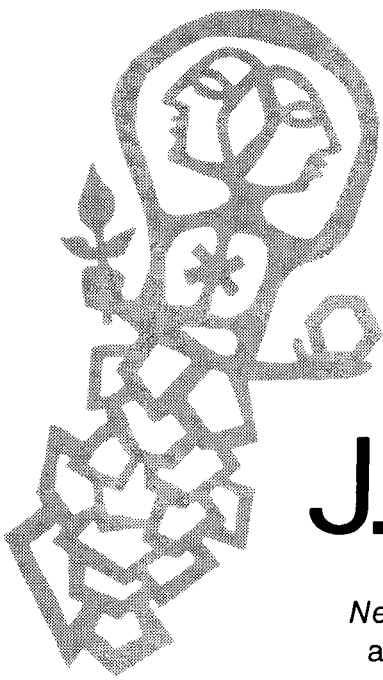

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violence, who will answer the call if we seek to repeal the violence of recent history? Miss Johnson herself marshals against her own argument the possibility that one of the most fiendish touches of the murderers' torture of the Downey girl, the playing of Christmas music as background for the recording of her screams, may have been influenced by a scene in the serious war movie, *The Victors,* where an execution was performed against a background of Christmas music. (It may also be noted that the cult of Charles Manson drew its ideological sustenance from such disparate sources as Robert Heinlein's science-fiction work, *Stranger in a Strange Land,* a Beatles song, "Helter Skelter," and the Book of Revelations from the Bible.)

The affectlessness of Brady and Hindley is no doubt the keynote of the case. But in Miss Johnson's concentration on pornography and its role in the crimes, she may have neglected evidence of other methods of destruction of the murderers' inhibitions that have "social implications." For example, it is reported by John Deane Potter that Brady brought himself to the proper pitch for criminal activity by taking "pep" pills. But the role of drugs in the case is not mentioned by Miss Johnson. Moreover, one cannot help but be struck by the role of technological recording media in the case—the recording of torture on tape, the pornographic photographs of the Downey girl under constraint, and the photographs of Hindley taken at the site of the graves on the moors. There is a suggestion in the case that the murderers had such a weak sense of their own reality and the reality of their horrible actions that only the use of recording media could provide them with sufficient evidence of who they were and what they had accomplished. The supplanting of individual perception and feeling by the images of the media has, of course, been the subject of some of our most interesting contemporary films and plays, including *Blow-Up, Medium Cool, We Bombed in New Haven* and, most recently, the charming musical, *The Last Sweet Days of Isaac.*

The preoccupation of Brady and Hindley with recording themselves becomes the focal point of a black-comedy variation on the Moors case theme, David Halliwell's play, *K. D. Dufford hears K. D. Dufford ask K. D. Dufford how K. D. Dufford'll make K. D. Dufford* (Faber and Faber, 1970). In Dufford, the murderer, there is a high degree of suspicion, of worry about the impression he is making on others, but no sense of his own reality. His prime concern is for his "image," and, as Mrs. Shamefoot's ambition in Ronald Firbank's *Vainglory* was to become a stained-glass window, so Dufford's dream is to become, through his self-photographed murder, an image on film, and, he hopes, a lead article in a newspaper. The play provides many versions of the murder scene, and the most successful captures the recording fantasies of the Moors murderers by having the child victim photographing her bumbling attackers. Dufford achieves his ambitions to an extent beyond his wildest expectations. The crime inspires a spate of commentaries in all the media. The last is a book (distressingly by an American) that enthusiastically reflects Dufford's concern for recording and propagating his criminal acts by its title "DUFFORD A Study of Murder as Public Relations." Ironically, Dufford himself does not recognize his kinship with the photophiliac Brady. Reading of the Moors case, Dufford remarks, "probably just sex."

Dufford is at the end destined to become a popular song, a song that, in doggerel, neatly sidesteps the issue of whether the public identifies with murderers or differentiates itself from them:

> And yet Keith Dufford was a man
> Who walked on two legs, had no tail,
> Who must have seen the sun and felt the rain.
> Oh how was he diff'rent, how was he diff'rent,
> and how am I the same?

It has been justly observed that Emlyn Williams' *Beyond Belief* (Hamish Hamilton, 1967), which fleshes out a factual account of the Moors case with the author's fictional "surmises," shares with Miss Johnson's work an emphasis on the murderers' readings in sadism and the prevalence of portrayed violence. The place of cinematic

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violence in the atmosphere in which Brady and Hindley grew up is marked by continual quotations of lurid titles from movie marquees. But Williams, to a greater extent than Miss Johnson, is concerned about the impact of the pornography of historic violence. In fact, he theorizes that the murder of John Kilbride may have been suggested by the murder of President Kennedy the day before. Beyond this reference to the aura of violence, Williams portrays the crime, in rather traditional terms, as growing from the roots of childhood experiences and from the poor quality of urban life. Ultimately, however, he pauses before the "mysteries of identity . . . the spells which are woven after birth, the subtle processes working from day to day in the darkness of the young head, as it grows from childhood to adolescence and maturity."

It should not surprise us that Miss Johnson, who is, after all, a novelist by trade, should, despite the social message of *On Iniquity,* stand in awe before the mystery of the personal relationship between Brady and Hindley. She finds the case to be "a touchstone of what can go hideously wrong with two people." In dealing with their development into criminals, she has recourse to the psychiatric concept that is a favorite of amateur criminologists, *folie à deux*. In the hands of the amateurs this concept becomes a notion that two individuals who separately might have stayed within the bounds of conduct that society tolerates may, by interaction with each other's personalities and fantasies, drive themselves into the abyss of criminality.

Although the state of *folie à deux* is recognized by professional psychiatrists, it appears that the amateurs of crime have a more romantic theorem than the good doctors would accept—that the combination of fantasies of partners locked in *folie à deux* is so unusual that neither partner would have been likely to find another partnership with the same lethal consequences. It may therefore be that the amateur concept of *folie à deux* is the infernal parallel of the belief that marriages are made in heaven.

Miss Johnson is tempted to determine that one of the murderers was the dominant partner in the psychological deterioration of the couple, and she eventually fixes upon Brady. "He read, he led, she followed," Miss Johnson writes. The accuracy of labeling either party as fully dominant, however, is put in question by Miss Johnson's feeling early in the trial that Myra Hindley was the motive force behind her lover. No one-sided view of the relationship appears satisfying after a review of the evidence. A striking point is that Hindley, whom Miss Johnson finally tabs as subservient, did all the driving in the pair's criminal expeditions and that Brady apparently never obtained a driver's license. It may be that Miss Johnson, misled by her emphasis on pornography, formed the impression that Brady, who seemed to have the deeper interest in pornography and had a long involvement in sadism, was therefore more "abnormal" than Hindley. Miss Johnson, however, ignores the suggestions of abnormality in Hindley. Myra Hindley posed for pornographic photographs with her dog, and her most violent display of emotion in the entire case was upon being informed of the death of her dog in the course of police laboratory tests to determine his age.

Miss Johnson also displays the penchant of crime writers since F. Tennyson Jesse for classifying crimes, much in the manner that Polonius classified plays in *Hamlet.* She places the Moors crimes in the category of "the corporate murder, by two or more people of two or more people." On the basis of the number of victims, she distinguishes the case from that of Loeb and Leopold and suggests a similarity to the activities of medieval covens. The number of victims, however, is a very unsatisfactory way of categorizing crimes, and a student of the Loeb-Leopold case might be content to attribute the nonrepetition of the murder to quick detective work (or to the loss of Leopold's glasses, if one prefers) rather than to a fulfillment of the criminal impulse. If the subclassification of "corporate murder" is helpful, I would prefer a distinction based on the choice of victim:

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was he selected at random or was he the subject of special hostility on the part of one or more of the murdering group? It is the pure chance of selection of the victim that places the Moors case closer to Loeb-Leopold than to such cases as that of Pauline Parker and Juliet Hulme, who murdered Pauline's mother because she was attempting to end their relationship, or those of the traditional corporate murderers of the unwanted husband, such as Edith Thompson and Frederick Bywaters, Ruth Snyder and Judd Gray, and the like. The comparison of the corporate murders of multiple victims to medieval witcheries may be comforting by the distance that the allusion lends, and Miss Johnson states that they are rare in the nineteenth and twentieth centuries. Such crimes, however, are unfortunately very much a part of the modern scene. We may recall as an example the murderous automobile journey of Charles Starkweather and his girl friend. And Miss Johnson's description of the role of the charismatic leader in corporate murders reads chillingly like a prescient vision of the Manson cult.

At the end of the essay Miss Johnson returns again to her quarrel with pornography, which she expands to cosmic scope. In raising the question of whether the Moors case would not justify a restriction of literary freedom, she stands Dostoevski on his head. Ivan Karamazov, because of the suffering of children and the "other tears of humanity with which the earth is soaked from its crust to its centre," is anxious to return to God his entrance ticket to life. He declares that the "higher harmony" in which the religious Alyosha believes is "not worth the tears of . . . one tortured child." Miss Johnson writes that she is unwilling to return her ticket, even after having seen the film of Belsen and even after the Moors case. Instead, she suggests, without deciding, that broad restriction of literary freedom may be worthwhile if it can prevent the suffering of a single child. She cannot accept the notion that evil and cruelty are a necessary imperfection of humanity. Instead of finding the tears of a single child the basis for rejecting a religious concept of life, she would consider altering the living and cultural patterns of millions if the possible result may be to spare that child. Of such emotional and intellectual stuff are both generous spirits and extremists born.

In determining to insert a crime resembling the Moors case into his *roman fleuve,* C. P. Snow was able to select from a number of alternative methods of relating the trial to the lives of the principal characters: the use of the trial as a public event in which the characters would express and develop views purely in the roles of citizens (a fictional parallel of Pamela Hansford Johnson's work); the introduction of a character into the processes of the trial in a professional capacity; or the establishment of a personal relationship between the principal characters and the participants in the crime. Snow elected to make one of the accused murderesses, Cora Ross, a niece of Lewis Eliot's childhood friend, George Passant. She and Kitty Pateman, with whom she is having a love affair, are accused of torturing and murdering an eight-year-old child. Snow's decision to establish a personal tie with one of the murderesses does not appear to have been made for technical considerations alone. The close relation between the observers and the trial is very much in keeping with the point of view from which events are generally seen in Snow's fiction. Despite the fact that C. P. Snow, the novelist, is also Sir Charles Snow, the scientist and public servant, he is primarily concerned in his fiction with personal and social relations within relatively small groups, and the impact of the outside world and of contemporary history is recorded in reactions and interreactions of the group members. Snow's early *Death Under Sail,* which describes the murder of a host at a boating party and the reactions of the guests while in seclusion at a cottage after the crime, obviously resembles the Agatha Christie "murder at the priory" school, but ironically also looks forward to the group emphasis of Snow's mature novels.

The application of this method to the contemplation of the crime in *The Sleep of*

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Reason does impose some limitation on the scope of Snow's insights. The brutal crime is "domesticated" by bringing its perpetrator within the family group of the novel. As a consequence, the fundamental question with which the novel and many serious crime books must grapple, the significance of a crime to the outside observer, is oversimplified from the start: Lewis Eliot *must* contemplate the crime and come to grips with it because it involves a relative of his close friend.

At the same time, the observation of the crime through the eyes of a related group has an organic relation to a basic tenet of the *Strangers and Brothers* series: that the "flow" of life through the channels of career, marriage, friendship and group relations is the normal source of happiness and satisfaction, and that the disasters of illness, loss of loved ones, war, scandal and crime are diversions of this "flow." These diversions are, one hopes, temporary, but, to quote the Sophoclean dictum of Lewis Eliot in *The Sleep of Reason*, "Call no man happy until he is dead." The notion of the diversions of the flow of life is referred to by Snow in *The Sleep of Reason* as "arrests of life." He explicitly pairs as examples of such "arrests" Lewis Eliot's suffering from a detached retina and the impact on him and his friends of the trial of George Passant's niece. Moreover, the relation of crime with war and genocide as disruptions of ordinary life is continually stressed by the characters' recollections of Nazi concentration camps. Snow's vision of Auschwitz, however, does not overbear his confidence in the values and duties of normal life. In fact, Eliot's most striking comparison of the child-murder with Auschwitz is not a view into the horrors of the prison camp but a look cast outward from the camp. He quotes the observation of a former prisoner that at Auschwitz one could not escape a degrading and ironic sense of the relativity of time—the feeling that

> on the same day, *at the same moment*, people had been sitting down to meals or begetting children while, a few hundred yards away, others had been dying in torture. It had been the same with this boy's death.

At the end of the novel Snow asserts the resumption of the normal flow of life in a very unassuming way, by the announcement to Lewis Eliot of his nephew's engagement.

This is not to say that either Snow or his characters take the torture and murder of a child lightly. But he perhaps is less willing than Miss Johnson to draw detailed "social implications." Lewis Eliot is not appalled by the sexual revolution. He comments that sexual freedom represents a victory of the ideas that George Passant had preached all his life, and that most people he knew did not regard fornication as an offense. Moreover, Eliot is not convinced that the new generation has fundamentally changed. Strolling across his university campus, he notes that the students, despite new clothing and social and sexual customs, still appear to be worrying about exams.

Significantly, there appears to be a deliberate discounting of specific influences of ideology or literature on the murder. Eliot is most concerned about the effect of the case on George Passant because he fears that the prosecutors (and the community) will blame Cora Ross's participation in the murder on her having belonged to the group of young people to whom her uncle had preached individual liberty and free love.

In his opening address to the jury, however, the senior counsel for the prosecution makes only a brief mention of George's group. Matthew Gough, one of the prosecution's psychiatric experts, testifies about the possible effect of the Passant group on Cora Ross. He indulges in a speculation that is surprisingly the reverse of what one often hears from the pro-censorship forces—that had Cora been less timid or inhibited, the group might have liberated her, but that "it was hurtful to live in a Venusberg without taking part oneself." Martin Eliot wonders, in a conversation with his brother Lewis, whether the crime might never have been committed if it had not been for the "hothouse air" that surrounded George and his group. Lewis Eliot's reply seems to speak for Snow in rejecting the possibility of identifying specific ideological influences as the sources of a criminal act:

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Was there ever any single cause of any action, particularly of action such as this? Yes, they must have been affected by the atmosphere around them, yes, they were more likely to go to the extreme in their sexual tastes. Perhaps it made it easier for them to share their fantasies. But between those fantasies, and what they had done, there was still the unimaginable gap. Of course, there were influences in the air. But only people like them, predisposed to commit sadistic horrors, anyway, would have played on to the lethal end. If they had not had these influences, there would have been others.

Compared with Brady's testimony about his readings in sadism, the testimony of the murderesses in *The Sleep of Reason* about their reading habits is a distinct letdown for the censors. Asked about what she read, Cora Ross answers that she read nothing. Kitty Pateman, who is the reader of the two, testified that she read Camus, but Lewis Eliot does not believe her, thinking that she is trying to impress.

The emphatic refusal by Snow in *The Sleep of Reason* to attribute a baleful influence to literature is in marked contrast to his position in his 1959 Rede Lecture, which was published as *The Two Cultures and the Scientific Revolution*. In *The Two Cultures*, Snow, in support of his preference for the scientific over the literary "culture," quoted with approval the observation of a "scientist of distinction" that the influence of most of the dominant writers before World War II had brought "Auschwitz that much nearer." Strangely enough, it is now Pamela Hansford Johnson who, in *On Iniquity*, sees a resemblance between the literature on our bookstalls with that available in the last days of the Weimar Republic, while Snow, in his novel, discounts the possibility of corruption by literature.

In *Death Under Sail* the detective, Finbow, maintains the primacy of psychological evidence over material facts. It appears that Snow found an incompleteness in the Moors Trial because of the absence of psychiatric witnesses. Moreover, to the observer of a crime who seeks to "differentiate" himself from the murderers despite his recognition of his own impulses toward violence and unreason, it is soothing to suggest that the explanation of the criminal act may, after all, be "medical." It surely must have been a relief to Ian Capel and his friends in *Death Under Sail* to discover, as we learn at the end of that novel, that the murder of their host by a member of their close social circle may have been due to the mental deterioration of the murderer as a result of a terminal disease.

In any event, considerable space is given in the recounting of the trial in *The Sleep of Reason* to presentation of evidence on the psychiatric history of the two murderesses. No individual analysis of the girls' personalities and criminal motivation is presented as completely satisfying, and Lewis Eliot is impressed by the moderation shown by all the experts in giving their views. Like Miss Johnson in her essay, Snow's prosecution witness, Dr. Cornford, favors the theory of *folie à deux* and finds that one of the killers (Cora Ross) played a dominant role in the relationship. Most of the trial observers agree with Cornford. Snow, however, through the opinions of Justice Fane and the observations of Lewis Eliot himself, holds open the possibility that the relation between the two girls may have been structured on the basis of complementary qualities rather than simplistic masculinity and femininity or dominance and submissiveness. Justice Fane is struck by Cora Ross's loyalty to Kitty Pateman. He does not think that Cora was "so much in charge" and suspects that "the little one [Kitty] is a fiend out of hell." During Eliot's visit to Cora in prison after the trial, he is struck by her habit of making all her future plans in terms of her life with Kitty, while he has little doubt that Kitty could remake her life alone. His most profound impression is that Kitty is the more imaginative of the two, and she seems to him to be a pathological liar.

Both the crime and its aftermath afford Snow an opportunity to elicit from the varied personages of *The Sleep of Reason* a full spectrum of responses to the significance of the case and to the larger-scale human cruelties it recalls. The Gearys, a very happily married couple, are capable of regarding the crime as an "accident." To

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old Justice Fane, the crime provides no reason to lose his confidence in free will. He regards the murderers as responsible for their actions just as he is for his own in deciding whether to order a second gin and tonic. Both Martin Eliot, Lewis' brother, and Lewis' son, Charles, suggest, from different ideological grounds, that the particular case would not have meant as much to Lewis in the absence of his personal connections with the case. Martin's view is that of a pessimistic lifelong radical who must ponder whether a differently ordered society would have kept the murderesses under control, but is not at all sure that it would have been possible. He did not require this child-murder to maintain his conviction that "men are dangerous wild beasts." In the opinions expressed by the young Charles Eliot, we see this crime, and Auschwitz, becoming history. He sees his father as claiming false significance for the crime by relating it to Auschwitz, which "happened years before . . . [Charles] was born." He claims the right for himself and his generation to find out for themselves the "awful things" in the world of the here and now in which they stake their interest.

Without blaming the murder in *The Sleep of Reason* on any single factor, and despite the variety of reactions to the crime within Lewis Eliot's circle of friends, Snow nevertheless has clearly founded the novel on a defense of the life of reason against excessive cultivation of instinct. Its title is derived from a title of one of Goya's *Caprichos* etchings, "The sleep of reason brings forth monsters." In a late chapter, Lewis Eliot observes in a rare sermon directed to the reader:

> Reason was very weak as compared with instinct. Instinct was closer to the aboriginal sea out of which we had all climbed. Reason was a precarious structure. But, if we didn't use it to understand instinct, then there was no health in us at all.
>
> Margaret said she had been brought up among people who believed it was easy to be civilized and rational. She had hated it. It made life too hygienic and too thin. But still, she had come to think even that was better than glorifying unreason.

The crime is clearly related to recent history in Eliot's peroration invoking the name of the novel:

> Put reason to sleep, and all the stronger forces were let loose. We had seen that happen in our own lifetimes. In the world: and close to us.

Lewis Eliot's reference to Margaret's defense of civilized life despite her reservations about its quality recalls Miss Johnson's preference, in *On Iniquity,* to so-called "bourgeois death" over a life or death of violence. As the opinion of Eliot's wife, Margaret, harmonizes with his, so Miss Johnson is at one with her husband in urging that the suppression of instinct may have social value. Reversing William Blake's dictum, she observes, in criticizing a play depicting the murder of a child, that it is "better to nurse unacted desires than to strangle an infant in its cradle."

Strong support for these views is found in the words of a man often falsely accused of glorifying instinct, Sigmund Freud. Freud wrote, in his *Thoughts on War and Death:*

> . . . if we are to be judged by the wishes in our unconscious, we are like a primitive man, simply a gang of murderers. It is well that all these wishes do not possess the potency which was attributed to them by primitive man; in the crossfire of mutual maledictions mankind would long since have perished, the best and wisest of men and the loveliest and fairest of women with the rest.*

The sincerity of one's advocacy of the abolition of capital punishment would certainly be well tested by immersion in the details of the Moors Trial. In *On Iniquity* Pamela Hansford Johnson recalls in sharp detail the "exhilaration" of her attendance in the gallery of the House of Lords when capital punishment was finally abolished. She had the feeling "of a sudden cleansing and freshening: as if the windows had been thrown open upon a stuffy room, and the air of the sea had poured in." And yet she confesses that, since life imprisonment was the maximum penalty that Brady and Hindley faced, the trial provided no "ca-

* Quoted in Lawrence J. Friedman, "No Psychiatry in Criminal Court," *American Bar Association Journal* 56 (March, 1970): 242.

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tharsis," and "the end was, in fact, unaesthetic." She writes:

> . . . something violent should have happened to put an end to violence. Throughout, we *were missing the shadow of the rope.*

Lewis Eliot has a similar impression during his attendance at the Ross-Pateman trial:

> There was none of the pall upon the nerves, at the same time shameful and thrilling, which in those earlier murder trials I had sensed all round me and not been able to deny within myself. For there was no chance of these two being sent to their deaths.

No shame need be felt in recognizing the coexistence of an intellectual conviction that capital punishment is wrong and an irrational sense that the ritual of trial and punishment has suffered a psychological loss when violence remains unmet by counter-violence. Miss Johnson recognizes acutely that the observer may hope that the counterviolence will be provided not only by the ultimate penalty, but also by the trial itself. She admits to keen disappointment that nobody was able to break Hindley down in the course of the trial. Indeed, Miss Johnson is so dissatisfied with the purgative effects of the trial or the punishment of life imprisonment (with its attendant difficulty of security for the murderers, child molesters being notoriously difficult to protect from their fellow prisoners), that she is compelled to conclude that it would have been better if Brady and Hindley had been caught red-handed and shot on the spot. In other words, the abolitionist ends by favoring instant capital punishment.

The confession of conflictive feelings by abolitionists of capital punishment is not new in our literature. We find a striking example in Thackeray's essay, "The Case of Peytel" (1839), which appears in *The Paris Sketch Book.* The essay, describing the murder trial of Sebastian Peytel, of whose guilt Thackeray was unconvinced, was written in the form of a letter to a lawyer with the doubtless fictional, but nevertheless sympathy-inspiring, name of Edward Briefless. At the end of the essay Thackeray purports to confess a surprising addiction to attendance at public executions. He bitterly regrets arriving too late to witness the execution of the famous French murderer, Lacenaire (whom many will recall as the sinister villain of *Les Enfants du Paradis*). He did arrive in time to see street-boys dancing around a pool of ice tinged with Lacenaire's blood. He thinks the spectators all had a great time, but has no illusions about the penological or moral significance of the event:

> Was any man, who saw the show, deterred, or frightened, or moralized in any way? He had gratified his appetite for blood, and this was all.

Thackeray finds in the emotions of the observer a trace of *schadenfreude:*

> There is something agreeable in the misfortunes of others, as the philosopher has told us.

Although the reference may be to Lucretius, the observation is seconded by Finbow in Snow's *Death Under Sail:*

> It is one of life's major consolations . . . the ease with which we bear other people's misfortunes.

Thackeray makes an ironic comment, as well, on the pleasant aftermath of an execution, "What a good breakfast you eat after an execution; how pleasant it is to cut jokes after it, and upon it. This merry, pleasant mood is brought on by the blood tonic."

But then Thackeray's mood changes to that of the earnest abolitionist, and all the major arguments against capital punishment—the uncertainty of guilt, the doubtfulness of deterrence, the moral problem—are swiftly and powerfully put:

> But, for God's sake, if we are to enjoy this, let us do so in moderation; and let us, at least, be sure of a man's guilt before we murder him. . . . What use is there in killing him? You deter no one else from committing the crime by so doing: you give us, to be sure, half an hour's pleasant entertainment; but it is a great question whether we derive much moral profit from the sight. If you want to keep a murderer from farther inroads upon society, are there not plenty of hulks and prisons . . . ?

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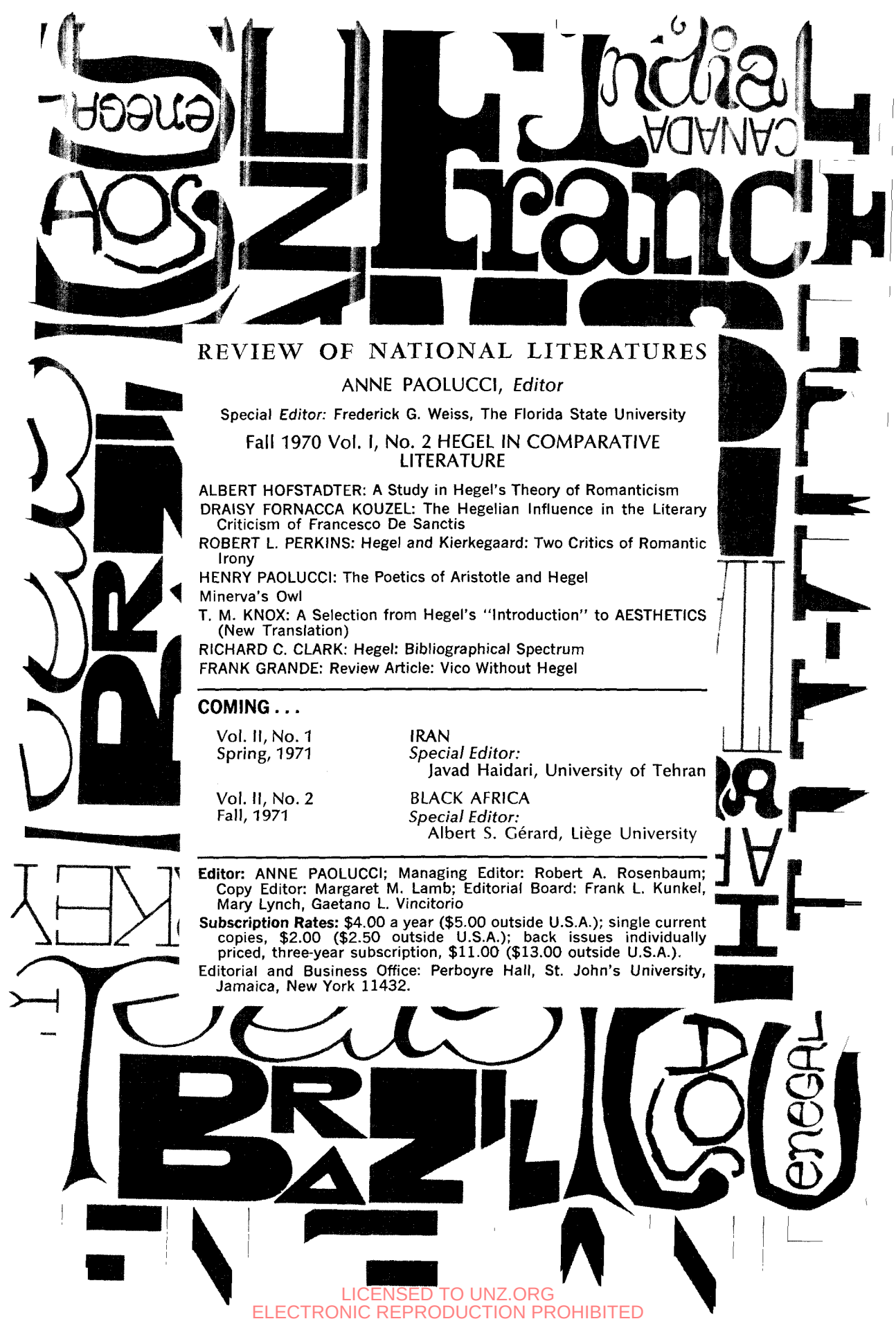

REVIEW OF NATIONAL LITERATURES

ANNE PAOLUCCI, *Editor*

Special *Editor:* Frederick G. Weiss, The Florida State University

Fall 1970 Vol. I, No. 2 HEGEL IN COMPARATIVE LITERATURE

ALBERT HOFSTADTER: A Study in Hegel's Theory of Romanticism

DRAISY FORNACCA KOUZEL: The Hegelian Influence in the Literary Criticism of Francesco De Sanctis

ROBERT L. PERKINS: Hegel and Kierkegaard: Two Critics of Romantic Irony

HENRY PAOLUCCI: The Poetics of Aristotle and Hegel

Minerva's Owl

T. M. KNOX: A Selection from Hegel's "Introduction" to AESTHETICS (New Translation)

RICHARD C. CLARK: Hegel: Bibliographical Spectrum

FRANK GRANDE: Review Article: Vico Without Hegel

COMING . . .

Vol. II, No. 1 Spring, 1971	IRAN *Special Editor:* Javad Haidari, University of Tehran
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An unusual alternative to capital punishment is proposed by Ian Capel, the protagonist of Snow's *Death Under Sail.* Shortly after the murder of their host on his boat, Capel proposes "another crime" to the assembled guests—that the murderer confess so that the guests can cooperatively arrange things to make the murder resemble suicide. Capel announces that he does not believe in "self-righteous revenge," which resembles the crime itself. His proposal, however, is made "on the single condition that whoever did it gets out of our company and our life, and does not come back."

In *The Sleep of Reason* many of Lewis Eliot's interlocutors and acquaintances are unhappy over the fact that the young murderesses, under the 1957 Homicide Act applicable to their trial, do not face capital punishment because they did not kill their victim by shooting. In the midst of the trial, Archibald Rose, the junior barrister for the prosecution, holds a party (a little hard to conceive, at least in this country) for all the lawyers in the case, including defense counsel and their juniors, and for others, of course including Lewis Eliot. When the conversation turns to capital punishment, a majority appears to favor its retention, including Mrs. Rose, who has just performed the maternal duties of putting the children to bed, but comes out in favor of capital punishment with "a firm young woman's confidence." Paradoxically, it is senior prosecuting counsel who comes out most strongly against capital punishment "even in a case like this."

Lewis Eliot himself is earlier faced with the capital punishment issue in a conversation with the C.I.D. officer who is in charge of the case. The officer does not believe in "the crap about deterrence" but supports capital punishment because "some people . . . aren't fit to live." Eliot replies: "We're not God, to say that." The officer then proceeds to voice an opinion that rings upon the ear strangely like that of Miss Johnson: ". . . when we had them in and discovered what they'd done, I'd have put a bullet in them both."

The end of this interview is unspectacular. When Eliot is asked what he would do with the murderers, he "had no answer ready, and gave no answer at all."

The refusal to give an answer on the issues of crime, its prevention or cure, is perhaps the respect in which Snow's work is most strongly set apart from his wife's essay. But both of them are equally convinced that intelligent people must live with and respond to the crimes and human disasters of their time. Perhaps one of the great civilizing benefits of the abolition of capital punishment will reside precisely in the destruction of the illusion that the violence of the crime has been wiped out by the violence of the execution and that the significance of the facts of the crime for the greater community has thereby been dispersed. No longer will the murderer, as proposed by Capel in *Death Under Sail,* "get out of our life"; we will be forced to continue to reflect on him and what he has done.

"If life is a fire . . ."

THE FRYING PAN: A PRISON AND ITS PRISONERS. *By Tony Parker. Basic Books. $6.95.*

Reviewed by JOSEPH WHITEHILL

'A therapeutic environment' they call it, they try to pretend it's a hospital: it takes you at least forty-eight hours to discover it's nothing of the kind, it's just another fucking nick [prison]. Only here they're a bit cleverer than most places, they've cottoned-on to one simple fact—that if you give people good food and a certain amount of permissiveness, they're much more likely to behave themselves. The result is you've got a much easier nick to run, all the bad boys are good boys; if they're not, they go on the ghost-train.

—Ron, a prisoner

Her Majesty's Prison Grendon Underwood, remote in Buckinghamshire, has a

JOSEPH WHITEHILL is a Maryland teacher, writer and engineer who has concerned himself for a number of years with the workings of his state's prison system.

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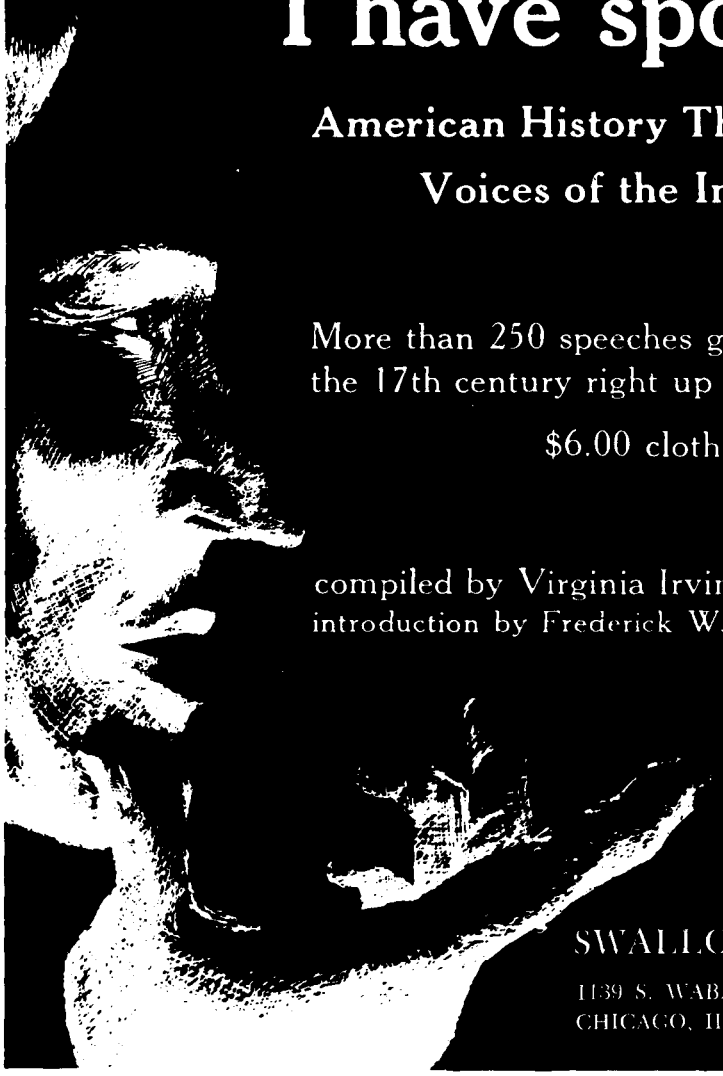

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psychiatrist for warden. Of the thirty thousand prisoners in institutions across Britain, just one hundred and fifty are at Grendon. All volunteered to come, and any can be returned to the major system at any time, either for violent misbehavior or because the treatment staff has decided the individual is not benefiting in a promising way. One wonders what sort of transaction a prisoner makes with himself (and what sort of prisoner does such transacting) in deciding to gamble the certainties of the jail he is in now, bad as they might be, for the unknowns of Grendon and the shame of admitting the possibility of mental illness.

The Frying Pan is a window into these men. Hundreds of tape-recorded interviews with staff and inmates over the span of several months provided Tony Parker with, doubtless, ten times the material that found its way into his book. Skillful and sensitive editing, however, has preserved all the truth exactly. Anyone with extensive acquaintance with prisoners at a personal and candid level will find reading *The Frying Pan* a little spooky: you've met all these men before, here in the United States! The world of prisons is supranational. Because of the strong generic similarity between the British offender and his American cousin, I could give the book to anyone unfamiliar with prisons and say, "This is very like the way it is here, too." (It is not faint praise to add that it would make an excellent college text in introductory sociology.)

The crime and prison scenes of the United States and Britain appear to differ in at least three areas, however. Judging by Mr. Parker's lack of allusion to it, racial conflict in British prisons is a minor problem. Here it is routine and severe, and is often exploited by prison administrators as a control lever. Second, in Britain the armed robber uses a blackjack, while here our man just naturally uses a pistol. This has to do with our history, our view of ourselves, and our barbarous lack of gun control. Third, British courts seem to sentence more lightly than do those of the United States. One of Mr. Parker's confidants, "Arthur," was serving two concurrent four-year sentences, for attempted rape and attempted murder of his twelve-year-old stepdaughter. In this country that could be rewarded with the gas chamber or, now that executions are in abeyance, two life sentences back to back.

Mr. Parker's permission to take his interviews came from the Deputy Chairman of the Prisons Board, Home Office, not from any Grendon official. "Almost without exception the doctors and medical staff of Grendon disagreed with my being given permission by the Home Office to go there . . . and before my arrival they agreed among themselves they were going to give me neither approval nor cooperation." My, but that has a wonderfully familiar ring! Mr. Parker is not only an exceedingly gifted interviewer—ingratiating himself with the most suspecting members of two groups greatly given to suspicion, inmates and guards—but he is forbearing as well. All he has to say about the hostility of the staff is, "Those whose work is ignored and whose attitudes are not represented in this book are omitted by their choice and not by mine."

Grendon is imperfect. Its deep-country location is idiotic. (There must be a perverse genie who locates prisons; they are mostly in the remotest regions and far from public transportation.) Crime is a city matter. Inmates' relatives live in the city. Work-release employers are in the city. Grendon's rules are ridiculous, allowing only one visit a month, one letter a week. It is hard to understand how strangling communication is psychotherapeutic. Appalling as the thought may be, perhaps the staff logic is that since some men have no one to visit or write to them, then in the interest of procrustean "fairness" *all* must be severely restricted.

Grendon, though, comes off better than Maryland's Patuxent Institution, our closest counterpart, in at least three respects: It is smaller—one hundred and fifty against more than five hundred inmates. Only in smallness is there community. Second, commitment is voluntary, whereas in Patuxent it is by court order. Compulsory commitment is necessary at Patuxent because sen-

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The Works of Stephen Crane

Edited by Fredson Bowers

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The O'Ruddy

Volume IV

Edited by FREDSON BOWERS, *University of Virginia. Introduction by* J. C. LEVENSON, *University of Virginia. lxxiv, 362 pp., illus. Price to be announced.*

The O'Ruddy, an Irish romance, is the last work written by Crane. It was left unfinished at the time of his death and was later completed by Robert Barr. *The O'Ruddy* shows the extent of Crane's artistic creativity and his genuine feeling for Irish people, language, and customs.

Reports of War

Volume IX

Edited by FREDSON BOWERS, *University of Virginia. Introduction by* JAMES B. COLVERT, *University of Georgia. xxix, 678 pp., illus. Price to be announced.*

Volume IX of Crane's *Works* establishes for the first time a definitive text of Crane's war dispatches from Greece, Florida, Cuba, Puerto Rico, and England. Crane wrote the dispatches for various syndicates and newspapers. This volume also includes *Great Battles of the World,* and several "Imogene Carter" war dispatches.

The Buck Fever Papers

By SHERWOOD ANDERSON. *Edited by* WELFORD DUNAWAY TAYLOR, *University of Richmond. xxx, 250 pp., illus.* $12.50

Sherwood Anderson was at his wittiest when he wrote these whimsical news stories under the guise of "Buck Fever" for his two newspapers in Southwestern Virginia. This is the first complete collection of those columns, and it is the best collection to represent Anderson's humorous and dialect writing.

William Byrd of Westover

1674-1744

By PIERRE L. MARAMBAUD, *University of Nice, France. ix, 297 pp., index.* $12.50

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tences are indeterminate, and very few bite off one of those willingly. Acknowledging our American admiration of force and our faith in our customary rightness, I nevertheless continue to believe that the office of psychiatry is to heal, not to normalize. Third, prisoner-guard relations at Grendon are sedulously kept amiable. At Patuxent the reciprocal hostility is as pervasive as it is in the usual penitentiary.

Now, much as I admire Mr. Parker's work here, and the Grendon inspiration for it, I must object in alarm and concern to one of his earliest statements: ". . . it seems likely that in any foreseeable future prisons will all eventually become like this one: small maximum-security units, in remote and inaccessible parts of the country, from which the inmates cannot and do not escape and which therefore allow a humane and permissive regime within." But Grendon works because of the ghost-train; anyone who acts up is deported. You can afford to be humane and permissive in a place if down the road you have a really tough "slammer" for an alternative. In ordinary prisons, security feeds and fattens on itself, and unless a humane administration is ever vigilant, you soon find prisoners spending twenty-four hours a day in their cells for the convenience of the shift commanders. And, alarming as it may sound on first hearing, in our minimum security and work-release situations, we accept a certain (low) percentage of walkoffs (escapes) as an unavoidable price to pay for the many strong virtues of these programs.

I have already touched on the wrongness of remoteness and inaccessibility. What we must do, I think, is move our prisons back to our communities and move our communities into our prisons. And, in handling the chronic offender, we must abandon our way of cycling him around the full course of the criminal justice track every time: offense, arrest, detention, trial, sentencing, serial incarceration in maximum, medium and minimum security prisons, work release, parole, next offense. This is expensive, inefficient, and not responsive to human realities. Once a man has been around that track two or three times, he has pretty well identified himself as someone seriously *and perhaps permanently* deficient at coping socially. We had better come up with something more imaginative for him, or we will have him around doing periodic damage for years, until he retires because of old age.

We must now accept that there are some offenders who will *never* make it on the street unsupported, but who also do not need the difficulty of maximum security confinement most of the time. When an individual will not or cannot control his behavior to satisfy society's minimum demands, then society is rightly entitled to apply to him whatever degree of ordering constraint is required to satisfy those minimum demands—that degree *and no more.* As we have hospital services ranging from intensive care units to evening physical therapy groups, so we might have a correctional system layered from maximum security to industry-family life compounds, in which an offender might move up or down freely and promptly as his behavior demonstrated he needed, quite possibly spending his whole life at it. We still await, though, the coming of the genius who can talk our legislature and our prisoners (those rigid, edgy fellows, fearful of all change) into such a practical, mad scheme.

Public Benefactor Number One

CAPONE: The Life and World of Al Capone. *By John Kobler. Putnam. $8.95.*

Reviewed by DAN WAKEFIELD

Al Capone had a bad image. Despite his many good works and generosity, he continued to be thought of in many quarters as a vicious hoodlum and racketeer. As he explained the problem himself, in one of his frequent interviews:

> I've been spending the best years of my life as a public benefactor. I've given people the light pleasures, shown them a good time. And all I get is abuse—the existence of a hunted man. I'm called a killer. Ninety percent of the people

DAN WAKEFIELD is the author of *Between the Lines, Supernation at Peace & War* and *Going All the Way.*

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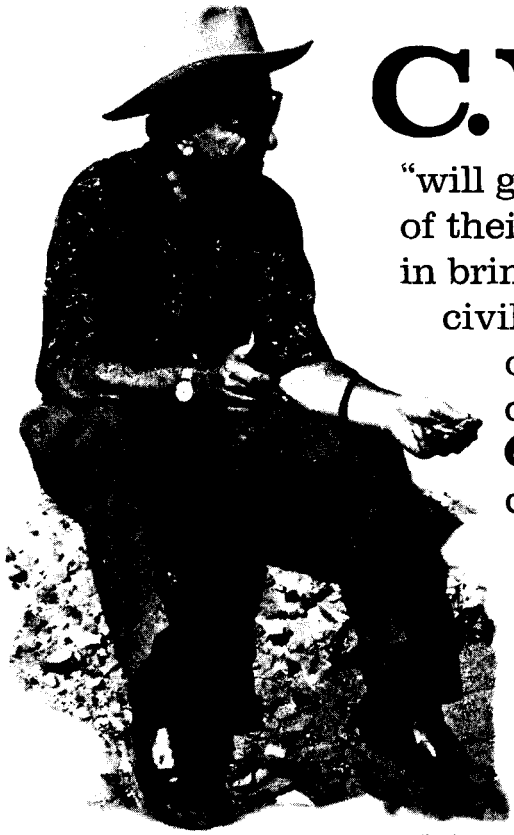

Photo by Hannelore Marek

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of Cook County drink and gamble, and my offense has been to furnish them with those amusements. Whatever else they may say, my booze has been good and my games have been on the square. Public service is my motto.

In his detailed, definitive biography of this notorious "public servant," John Kobler reports that Capone once considered hiring Ivy Lee, the famous publicist who gilded the image of John D. Rockefeller. Mr. Kobler doesn't tell us whether the famous gangster actually got in touch with the noted P.R. man, or whether Mr. Lee would have taken on the Capone account had it been offered to him. But even without the aid of public relations experts, Capone enjoyed a surprising amount of popularity for a man officially designated as a Public Enemy by the Crime Commission of his own city (and Chicago indeed was for some years "his own city" in the sense that he almost literally owned and operated a good part of it during his heyday).

In 1930, when the students of Chicago's Medill School of Journalism voted for the year's "outstanding personages of the world . . . the characters that actually made history," Capone was among the top ten along with the likes of Mahatma Gandhi, Albert Einstein, Charles Lindbergh and Benito Mussolini. When he visited the Charlestown, Indiana, racetrack that year, surrounded by bodyguards, he acknowledged the cheers of thousands who rose to applaud him by clasping his hands above his head in prizefighter fashion. His appearance in a sunburst yellow suit at the American Derby at Washington Park caused fans to swarm to his box for the privilege of a handshake, and the band struck up "This Is a Lonesome Town When You're Not Around," in his honor. At a Northwestern-Nebraska football game, a troop of Boy Scouts to whom he had given free tickets to the game expressed their gratitude with cries of "Yea, Al!" when he appeared in a purple suit and white fedora.

While waiting for the outcome of his appeal from a federal prison sentence for tax evasion during the early days of the depression, Capone opened a soup kitchen for the unemployed, and in six weeks dispensed 120,000 free meals. On Thanksgiving he gave away five thousand turkeys, and at Christmas threw a mammoth party for the poor people of Chicago's Little Italy. He commonly dispensed hundred-dollar tips to waiters, bought up the papers of scrawny newsboys with twenty-dollar bills, and sent fuel to the shivering poor; he was a kind of one-man Tammany Hall. When he was finally imprisoned on the tax charges, and transferred to the newly-opened federal hellhole at Alcatraz, the inmates of his original pen cheered him admiringly as he left. "I'll bet," he said proudly, as he looked around at the prisoners waving him on, "Mussolini never got a send-off like this."

And yet poor Al was not universally beloved. Perhaps the nature of his business precluded such general approval. At the peak of his career—when the president of the Chicago Crime Commission pleaded with Capone to guarantee a free election in Cook County in the fall of 1928—he ran a syndicate that "owned or controlled breweries, distilleries, speakeasies, warehouses, fleets of boats and trucks, nightclubs, gambling houses, horse and dog racetracks, brothels, labor unions, business and industrial associations, together producing a yearly revenue in the hundreds of millions of dollars." To run this mighty empire, Capone commanded "an army of sluggers, bombers, and machine gunners, 700 to 1,000 strong . . . For his immunity from prosecution he relied on an intricate linkage with City Hall, involving a range of officials from ward heelers to the mayor."

A man in such a position is bound to make enemies. And, despite his devotion to "public service" and his penchant for good works, he could sometimes be very bad-tempered. Like the time he learned that three of his own men were planning to betray him and take over his empire. He invited the three old chums to dinner, and after an abundant meal, had each of the gourmets tied to their chairs. Al then picked up a baseball bat and proceeded to bash in the skulls of each of these ungrateful guests.

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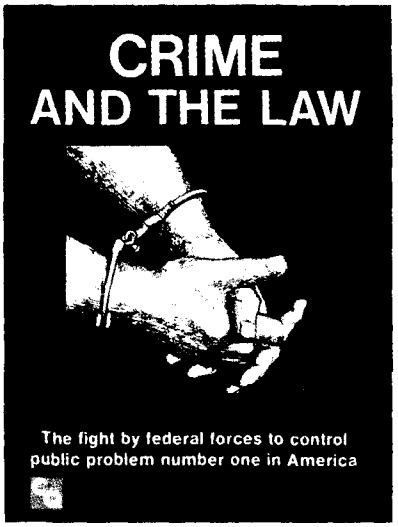

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He himself had to be constantly on guard against attempts on his life, not only from machine gun bullets and knives and razors, but even when he sat down to enjoy a good meal of his own. One rival gang offered the chef of his favorite cafe the sum of thirty-five thousand dollars if, when Capone came to dine, the cook would "lace his minestrone with prussic acid." Despite his millions and his power, life was no picnic for Al, when in fact any picnic might turn out to be the sort that featured arsenic in the antipasto.

Finally run out of Chicago by a reform administration, Capone was rebuffed by a virtuous Los Angeles, and had to spread a lot of lucre to the right people to buy a vacation home in Florida. The only community that actively sought the company of the public-spirited Capone was Rapid City, South Dakota, whose Chamber of Commerce secretary wrote Al a letter puffing the beauties of the Black Hills, and promised that this garden spot was the sort of place "where a stranger is not judged by his past record," claiming that in that bucolic land Al "would soon outlive the intimated crimes" that had been credited to him "without any proof whatever . . ." The governor of the state overruled the invitation, but South Dakota was not destined anyway to gain fame as a refuge for Al Capone. In a clear and obviously heartfelt statement, Capone announced, "I have no desire to live in the Black Hills."

Even the Black Hills would have been better than Alcatraz, where Al spent most of the six years and five months of his ten-year prison sentence for tax evasion, and where he was known by hostile prisoners as "the wop with the mop." One inmate stabbed him with a pair of scissors, another tried to strangle him, and his friends among the prisoners foiled a plot of some Capone-haters who had planned to put lye in his breakfast coffee. But his real pain was caused by the syphilis that he had long ago refused to have checked because of his fear of needles. When finally released, he was in the tertiary stage of that disease. As his former cohort Jake Guzik put it, "Al is nutty as a fruitcake."

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He repaired to his home in Miami, where he spent much of his time sitting on the dock in a pair of pajamas, smoking cigars, chewing sen-sen, and holding a fishing rod. Loyal friends came in to play gin rummy with him and usually allowed him to win, but when one forgot and defeated Capone, Al cried, "Get the boys. I want this wise guy taken care of."

Al was a sore loser. But there wasn't much left to lose. Not even Ivy Lee could have helped him in the end.

Crème du Crime

A CATALOGUE OF CRIME: Being a Reader's Guide to the Literature of Mystery, Detection, & Related Genres. *By Jacques Barzun and Wendell Hertig Taylor. Harper & Row. $18.95.*

Reviewed by EDMUND CRISPIN

Two ogres here assemble and pick over a mountainous pile of one of their favorite meats. About an eighth is judged succulent; a further eighth, edible; a quarter, dog-food or *faute de mieux;* the remainder, worthless. Although the reading of detective fiction may possibly, as Edmund Wilson has said, be "degrading to the intellect," patently it does nothing to inhibit the severer manifestations of the critical faculty.

The ogres' book is substantial, but not, of course, compendious: for literal compendiousness, at least another nineteen similar volumes would have been required. What we have here is something more personal, a *catalogue raisonné* deriving from two private libraries. In these libraries there are understandable omissions, such as the Maigret stories. Less understandable omissions are Ambler's *A Coffin for Dimitrios,* Iles's *Malice Aforethought* and Hammett's *The Glass Key.* On inclusions, many

✪ EDMUND CRISPIN was educated at Merchant Taylors' School and St. John's College, Oxford. In the crime-fiction field he has written novels, short stories, film scripts and radio plays. Since 1967 he has been crime-fiction reviewer for the (London) *Sunday Times.*

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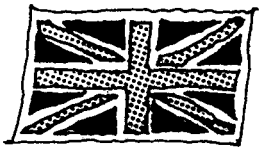

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will wonder, and wonder again, at the massive consideration given to John Rhode and to his *alter ego* Miles Burton. Meanwhile, relatively superb writers, such as John Dickson Carr, are badly neglected.

In one of several disavowals, the ogres urge us to differ from their judgment if we wish. To be sure, their judgment is not invariably unanimous (Fafner-J.B. being a good deal less merciful than Fasolt-W.H.T., who is inclined to make allowances). Fafner is strict about French—although not so strict as to have avoided crediting Balzac with the novel *Père Goriot*. Fasolt is sorrowful about scientific errors: "the author believes that victims of diabetes exhale an odor of acetylene." Both are obsessed with railroading, thereby praising several stories that on any other premise are irremediably tedious.

In short, *A Catalogue of Crime* is a strongly idiosyncratic book, taking little heed of the consensus, from which it differs widely. It remains nevertheless a compilation immensely useful for reference, and, at the same time, for anyone interested in the subject, delightful for browsing. Of particular importance and interest in the Introductory is the shrewd distinction between novel and tale. Crime fiction, say the ogres, is concerned first and foremost with "physical appearances, overt acts, and uncommon aspects of familiar things." These, to be sure, are in the novel also; but in the detective tale they require an attention so concentrated and so special as to create a separate genre: "It follows that a true appreciation of such tales must acknowledge in the good examples the presence of acute literary judgment, coupled with abundant invention and narrative power."

The ogres "find it easy to enjoy stories in which detection is subordinated, provided something other than mere agitation takes its place." One likes the ogres, and one would like to believe them, but as a matter of fact the assertion quoted is disingenuous: this distinguished pair likes nonratiocinative tales very little. About the nonratiocinative story they have many shrewd things to say—for example, in their

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reference to "the cruelty which passes current for truthfulness," as also in their very funny account of Simenon. But they fail to see the point of, for example, Ian Fleming; and in their pages Deighton makes no appearance at all, creditable or otherwise.

Properly condemning "indifference to detail" in crime fiction, the ogres have here and there been indifferent to detail themselves. They give dates and brief biographies, but these are far from accurate (to take birth dates, simply, those given for Christie, Simenon, Roy Vickers, Margot Bennett and Andrew Garve are all of them wrong). Death dates—for example, Kennedy, Punshon, Postgate, Vulliamy—when not known are omitted. Spellings are wrong (E. Spencer Shew, Ruth Rendell). Occupations are often wrong: Michael Underwood is not the Director of Public Prosecutions and Dermot Morrah was never editor of the *Times*. But worst of all, perhaps (unless you except the egregious muddle in the gloss on Michael Innes' *Old Hall, New Hall),* is title trouble. The ogres have realized that most British crime-fiction titles have been, and are being, regularly altered by American publishers. They have, therefore, attempted to give two titles for each book where this has occurred. But this, methodologically, has been their greatest failure. Innumerable alternative titles are simply not given, and of those that are given, some (for example, an item each from Christie, Marsh and Michael Gilbert) are quite simply erroneous. The ogres' errors, compared with their achievement, are perhaps of no major importance. Nevertheless, errors there are; and it is to be hoped that for any subsequent edition the research will be a little more strenuous.

Meanwhile, as a piece of sustained, rational, amusing appreciation, *A Catalogue of Crime* remains unique and incomparable. Its witty dedication is: TO POE'S PROGENY, WHO PURLOINED THE LETTER AND DISSEMINATED THE SPIRIT; and however much we may disagree with particular assessments, we can only admire the industry, and be pleased at the ultimate generosity, of the ogres who made it.

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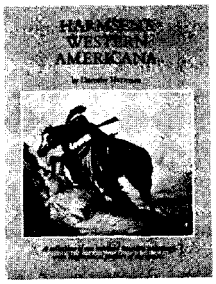

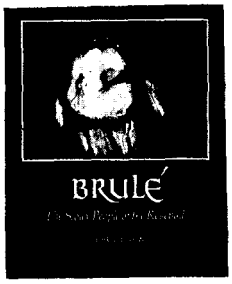

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The Warren Court: Too Dynamic?

The Self-Inflicted Wound. *By Fred P. Graham. Macmillan. $7.95.*

Reviewed by Arvin E. Upton

In some of its decisions the Warren Court, under the leadership of the former Chief Justice, enthusiastically flouted the admonition of Pope not to be the first by whom the new is tried. Indeed, as Professor Alexander Bickel of the Yale Law School has already pointed out, the Court perceived its function as dynamic rather than static in championing the rights of individuals against the state, especially when other organs of government, state and federal, had, in the Court's view, failed to adopt procedures to guard those rights.

In weighing the merits of the Warren Court's decisions in this area, the author of this book quite rightly brushes aside the extreme notions of the Court's function, the first being that the Constitution is only what the judges say it is, the second that the written words of the Constitution contain the whole truth, waiting to be revealed. Perhaps Mr. Graham, who is Supreme Court correspondent for the New York *Times* and the holder of a law degree, avoids extremes too much: One knows where his heart lies, but he is so judicious as to leave the reader, even a lawyer who has not studied all the decisions cited, in some confusion about the author's own opinions.

As Mr. Graham sees it, the high point of the Warren Court's activity, the "self-inflicted wound" that gives the book its title, was the *Miranda* decision in 1966, which incorporated prohibitions of the Bill of Rights, in terms applicable only to the federal government, into the vague "due process" requirement of the Fourteenth Amendment, in terms applicable only to the states. The Court held that a confession could not be used in a state criminal case unless the accused was advised of his right to counsel at the time of the police interrogation. The holding

✪ ARVIN E. UPTON practices law in Washington, D.C.

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was foreshadowed by the *Escobedo* decision in 1964, and some might argue that it was that decision, rather than *Miranda,* that divided the Warren Court from the prior Courts, which had grounded "due process" on "fairness" without introducing the specific restrictions of the Bill of Rights. In both *Escobedo* and *Miranda,* moreover, the Court made a large stride in theory toward policing the state police and not merely the state courts. The practical effect of this incursion is probably much less, however, than would be conceded by either the opponents or defenders of the Warren Court.

Unfortunately, the *Miranda* decision came at a time when the public was alarmed at the rising crime rate and it became only too easy for the opponents of the Court to attack the decisions as a cause of crime and the Court for "coddling" criminals. Statistics on this point, like most crime statistics, are wholly unreliable, as Mr. Graham demonstrates. But, he also suggests, the Court in *Miranda* probably overestimated its power as a political organ in a federal system to reach both deeply and effectively into state extrajudicial criminal procedures, which govern the prosecution of most of the crimes committed in this country.

This is a legitimate question, far different from the politically colored charges that continue to be directed against the Warren Court decisions, most recently at the American Bar Association meeting in London.

The truth is that our constitutional system frustrates any attempt to strike a proper balance between diversity and uniformity. Fifty varying legal procedural systems are no less obnoxious than one uniform legal procedural system. And the only solution, the establishment of regional governments, cannot be attained without Constitutional amendments that are doomed to fail as soon as they are proposed.

Mr. Graham is not an unreserved admirer of the Warren Court. He finds in its decisions a doctrinaire quality inherited from the New Deal ("a few wise men in Washington can solve all the nation's problems"), some vacillation, a too casual disregard of precedent, and a tendency to reach factual conclusions on inadequate data. And, surely, the Warren Court increased the possibilities of delay that our Western European friends find the most mystifying aspect of the administration of criminal justice in this country. One's impression is that while Mr. Graham admires the courage of the Court, he is impatient with its disdain to protect itself as a political institution. But given *Escobedo* and given the passionate belief of the Court majority that injustices were being committed and that only the Court could rectify them, *Miranda* may have been unavoidable. Unless, that is, the Court had paid unworthy attention to its political opponents. Certainly the political accusations grew in volume and resulted in legislative attempts to limit the *Miranda* doctrine and also, the author believes, in a sudden humility on the part of the Warren Court in such matters as wiretaps and searches and seizures.

This thoughtful, well-written, low-keyed book deserves a wider sale than it will probably receive. It should be read by those who wish to form an opinion, not by those who wish to confirm a conviction.

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The Reader Replies

THE READER REPLIES *carries miscellaneous comments by readers and authors on various articles that have appeared in the magazine. All communications should be addressed to: Editor,* THE AMERICAN SCHOLAR, *1811 Q Street, N. W., Washington, D. C. 20009. Because of space limitations we cannot guarantee to print all letters received.*
—EDITOR

Peter L. Marks's article, "A Vision of Environment," in your Summer issue, reminds me that thirty years ago I advocated watershed concepts for sewerage systems for sanitary wastes. I was designing sewerage systems for small towns with portions of the municipal areas lying over hills into other watersheds. Such collection systems depend on gravity flow. Pumping was necessary to lift these outlying drainage areas into the main watershed. Such pumping was not economical. Adjoining small communities on the same watershed frequently built separate plants. The operation of several small plants is not only more costly but less satisfactory than a single plant serving a substantial watershed area and disregarding ancient political boundaries.

Like other current writers, Mr. Marks has a distaste for the suburbs—a fashionable view. Some years ago the popular distaste was for the small town with its narrow limitations (and good daily train service). Next year's whimsy may be a revulsion against high-rise apartments.

Mr. Marks joins the chorus in calling on the federal government (as our ancestors used to look to God) for relief from his ecological problems, as the native tribesman calls his shaman for relief from his ailments, instead of seeking his own cure. Is it that we are tribesmen, Mr. Marks, who, having become separated from our ethnic tribes, now wander in confusion among strangers?

Might it not be more provident to make a beginning in a small way, laying aside these grandiose ecological utopias? In the days when wet garbage was fed to pigs, it was collected separately from other trash. A community ordinance requiring suitable segregation of solid wastes should be no more difficult to achieve locally than that requiring one to connect to the sanitary sewer; or an ordinance requiring that one turn in an empty, before purchasing a new six-pack of beer.

A. BRINTON CARSON
York, Pennsylvania

MR. MARKS replies: Mr. Carson's response is curious in at least three respects. The functional significance of the watershed concept has long been recognized (probably as far back as there were sedentary civilizations), so that neither his nor my use of the concept is particularly innovative. Second, my views on the suburban solution to life are derided as "fashionable," which, even if true, is hardly the point. Suburbs presently provide a convenient refuge from the hard social, political, economic and environmental problems confronting city dwellers, but do not, I believe, offer a very imaginative, long-term living arrangement. They are spreading at alarming rates, usually displacing agricultural and recreational opportunities. The basic issue here—whether to encourage more suburbs or to push for both revitalization of dying cities and designing and construction of new cities—is of enormous importance as we strive to provide housing for increases in population in the near future, and as such deserves thorough examination.

Third, I do not understand how in the same letter Mr. Carson can correctly point out the difficulties inherent in having small communities build and maintain their own sewerage systems, and then be critical of increased involvement from the federal government in environmental matters. The leadership and money must come from Washington, both because no lesser governmental unit has the huge sums of money needed for these problems, and because, as Mr. Carson states, local efforts are destined to be less efficient economically, and less effective ecologically.

Complex environmental problems will be solved, if at all, only through the open exchange of different ideas and attitudes. To dismiss categorically "these grandiose ecological utopias" is to be unnecessarily narrow-minded.

* * *

Even though I know virtually nothing about art and painting, I enjoyed reading Roy McMullen's article, "Painters' Painting: Cubism," in the Summer issue of the SCHOLAR.

The last sentence in that essay left me a little confused. Do I understand correctly that Cubism fostered in visual arts the same kind of "reductionism" that undermined humanism

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in physics, that undermined humanism in psychology—both Freudian and behavioristic—that undermined humanism in the social sciences, and that undermined humanism in other cultural areas?

It appears to me that this is what Mr. McMullen meant, but I dislike trying to read into someone else's words that which they may not have meant, especially when it is about art, an area in which I am entirely lacking in competency.

J. I. LEVKOFF
Financial Management
Miami, Florida

MR. MCMULLEN replies: I am afraid that last sentence in my wayward argument was indeed a little confusing, or at least a little telegraphic in style. I probably should have expanded it.

Mr. Levkoff's reading, however, is exactly what I meant, and so perhaps I was reasonably clear after all. I like these paintings of Picasso, Braque and their first followers. But I do feel that Cubism encouraged a notion among modern artists that a painting is "nothing but" an aesthetic object, without complex human overtones, and that this notion parallels some of the notions of modern scientists. Psychologists, for instance, often imply, to me anyway, that human love is "nothing but" a matter of stimulus-response or of sexual drives; social scientists sometimes reduce human communal life to "nothing but" graphs and statistics, biologists sometimes seem to be about to reduce us all to "nothing but" chemical reactions.

The notion seems to me very widespread. I can guess that in Mr. Levkoff's own profession he is constantly meeting people who reduce the human aspects of financial management to "nothing but" money.

* * *

I would like to applaud René Dubos' views on the unchecked expansion of technology, as expressed in his DESPAIRING OPTIMIST column in the Summer AMERICAN SCHOLAR, but I would like also to express the hope that we can define the "good" in terms of our cultural heritage as well as our biological heritage. His point is well taken that the ecological consequences of contemporary technology are likely to prove disastrous, but it is possible to find support for this position not only in biological science

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but also in Matthew 4:1-11, if one is inclined to look there.

If the eighteenth-century philosophers sought salvation through the perfectibility of man—the possibility of his indefinite improvement—it seems to me that our age takes for granted salvation through the indefinite expansion of man's power over the physical universe. If there is a single word in English to express this idea, I am not aware of it, but it does seem to me that we need one, for such a word might bring out into the open the pervasive—and generally unrecognized—faith that most people have in this concept today. To make the idea explicit is to open the possibility of alternatives.

It is astonishing to me that from the hordes of disciplined skeptics produced by our scientific culture so few individuals rise to question this basic axiom of the scientific explosion. I am glad that Dr. Dubos does so, as did Mr. Krutch, and I look forward to reading his column in the SCHOLAR.

PAUL J. BARRINGER, JR.
Sanford, North Carolina

* * *

I would like to congratulate you and author Oscar Handlin for his stimulating article, "History: A Discipline in Crisis?" in your Summer, 1971, issue.

. . . Also, I'd like to commend your publication of Alfred Kazin's remarks on the late Richard Hofstadter in the same issue.

HARRY J. SIEVERS, S.J.
Chairman, History Department
Fordham University

* * *

I'm not sure just what William Jovanovich was saying in his "The Universal Xerox Life Compiler Machine" in your Spring, 1971, number, but it is clear that he is confused about what xerography will do to writing because he doesn't understand what writing is if it doesn't exist as "property."

Having gone back only until 1710 to sort out his problem—by which time letters had become "literary property"—he did not come up with any notion of writing as it existed, in the West, before copyright laws. Yet "the right to copy" was certainly restricted long before that. The Renaissance popes handed out bulls by the dozens, threatening excommunication for any who copied a given work. Their intentions were perfectly clear: a scholar or writer seemed a man who had produced usable or worthwhile or entertaining work and showed signs of being able to produce more of the same—providing someone would keep him alive and in good supply of wine. Since books could then be printed and sold, the popes let the people support a good many writers—and only prevented the pirates (of whom there were scores) from cutting into the writer's support.

We suffer from a parochial notion that sees books as property. Xerography threatens the means of a writer's (and publisher's) support—but not writing itself.

"*Writing . . . is not generally valued until it* becomes available in secondhand form," Mr. Jovanovich writes. Hmm. Or perhaps writing becomes available in a secondhand form because it is valued? Back before publishers filled lists with "product," that's what most people thought.

CHARLES L. MEE, JR.
Editor, *Horizon*
New York, New York

* * *

I presume that Nicholas L. Henry, a graduate student, who wrote "Hardin Craig: Professor" [AS: Spring, 1971], is young, but he writes with balance, perspective and human interest that the oldest professionals must envy. Who cares any more for old mottoes under gnomons or old professors under expanded obituaries?

Mr. Henry made me care for Hardin Craig: to see Professor Craig (formerly a stranger); to know him; and to learn from him. Mr. Henry's essay is the final proof: the student demonstrates that indeed the professor has broadly, deeply, and firmly taught. What greater monument for Professor Craig than this well-written essay?

Of course, it is possible—strongly probable—that the student appreciated the teacher because the student by nature or learning already was close to the master.

FREDERICK C. DYER
Washington, D. C.

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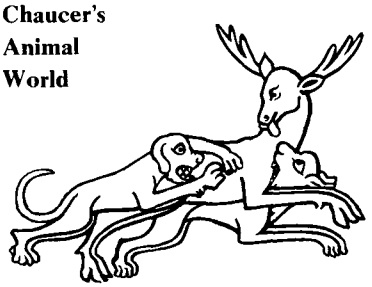

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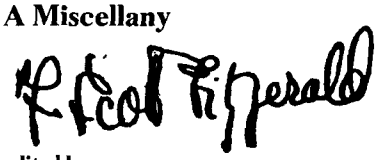

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